

1 IN THE CIRCUIT COURT OF THE STATE OF OREGON
2 FOR THE COUNTY OF MULTNOMAH

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4
5
6 **GRAND JURY No. 3 PROCEEDINGS**

7 **Case No. 54**

8 Conducted by:

9 Dave Hannon, Deputy District Attorney

10 Shawn Overstreet, Deputy District Attorney

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12 - - -

13 October 9, 2019

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15 DA Case No. 2407606

16 Portland Police Bureau Case No. 19-258996

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21
22 Katie Bradford, CSR 90-0148
23 Court Reporter
24 Portland, Oregon
 (503) 267-5112

25 Proceedings recorded on digital audio recording;
 transcript provided by Certified Shorthand Reporter.

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1 Re: Officer Gary Rick Doran, OIS
2 Date of Incident: 7-30-19
3 Deceased: Lane Christopher Martin
4 Portland Police Bureau Case No. 19-258996
5 DA Case No. 2407606
6 Grand Jury No. 3, Case No. 54

7 * * *

8 (Volume 1, Wednesday, October 9, 2019, 11:00 a.m.)

9 **P R O C E E D I N G S**

10 (Whereupon, the following proceedings were
11 held in Grand Jury No. 3:)

12 MR. HANNON: Thank you. Good morning. We
13 are on the record in Multnomah County DA Case
14 No. 2407606, Portland Police Bureau Case No.
15 19-258996. We're in Grand Jury No. 3. Now, it's my
16 understanding this is Case No. 54.

17 On behalf of the State, Dave Hannon,
18 H-a-n-n-o-n, Bar No. 045666. And I'll allow
19 Mr. Overstreet to announce himself for the record.

20 MR. OVERSTREET: Also on behalf of the
21 State, Shawn Overstreet, O-v-e-r-s-t-r-e-e-t, Bar
22 No. 114859.

23 MR. HANNON: And this is the time and place
24 for a criminal homicide investigation. Ready to take
25 testimony and the State will call its first witness,

Examination of William Winters

1 Detective Billy Winters.

2 All right. Thank you, Detective Winters.

3 Could you first -- yeah, they'll swear you in. Thank
4 you.

5 **WILLIAM WINTERS**

6 Was thereupon called as a witness; and, having been
7 first duly sworn, was examined and testified as follows:

8 **EXAMINATION**

9 BY MR. HANNON:

10 Q All right. Could you please start by
11 stating and spelling your name for the record.

12 A William Winters. First name is
13 W-i-l-l-i-a-m; last name is Winters, W-i-n-t-e-r-s.

14 Q And, Detective Winters, how are you
15 currently employed?

16 A I work for the City of Portland, Portland
17 Police Bureau as a homicide detective.

18 Q And how long have you been with the
19 homicide unit?

20 A Just about a year. Prior to that, I was a
21 robbery detective for five-and-a-half years. And
22 prior to that, I was a sex crimes detective for
23 three. And prior to that, ten years of patrol.

24 Q And so your total experience with the
25 Portland Police Bureau?

Examination of William Winters

1 A Just about 19 -- just about 19 years.

2 Q And from transitioning from an officer into
3 becoming a detective, is there any additional
4 training that you go through to work as a detective?

5 A Yes. You take a test, you get promoted.

6 Once you get promoted, you go to Portland Police

7 Bureau detectives academy, which is about 80 hours.

8 From there, you're on a 12-month probation
9 period where you go to different units, different --
10 and investigate those, from sex crimes to property
11 crimes to robbery to homicide to white collar crimes.
12 And then you're assigned to a detail after that to
13 investigate.

14 Q And just if -- in -- in a nutshell, if you
15 could describe for the grand jury what are some of
16 the techniques that you develop and learn in becoming
17 a detective separate and apart from just -- just
18 being a uniformed officer?

19 A Learning how to talk to people
20 investigative-wise, writing search warrants, writing
21 reports, canvassing neighborhoods, taking the time to
22 interview different witnesses, different angles of
23 how to and becoming experts of a certain criteria.

24 Like, if I was in the robbery detail for
25 five years, I strictly worked robberies at that time,

Examination of William Winters

1 so I became pretty -- an expert. But I investigated
2 a lot of those, so I became pretty knowledgeable of
3 that.

4 Now, coming to homicide, you investigate
5 kidnapping, you investigate homicides,
6 officer-involved shootings at different roles. Not
7 just being the lead detective, but you could be a
8 secondary to assist the lead detective.

9 You can be a crime scene detective where
10 you work a scene and you're there just in charge of
11 trying to gather evidence and -- at the crime scene.
12 A support role where you're interviewing sub -- or
13 witnesses to officers involved as witnesses, just
14 citizens, canvassing the neighborhood to assist in
15 any investigation.

16 Q So let's talk about a couple of those
17 things. First of all, in your -- in your years so
18 far, do you have an estimate as to how many homicide
19 investigations you've been a part of in that time
20 period?

21 A Just in the last year, there's been 19
22 homicides total, including four officer-involved
23 shootings. I've been present probably for every one
24 of them in different roles, leading from a support
25 role, the support detective to a crime scene

Examination of William Winters

1 detective to a lead investigator over that last year.

2 Q And when focusing -- like, when -- and on
3 homicides in particular and taking on a lead role, do
4 you have auxillary support, such as other homicide
5 detectives who take your direction and help you in
6 the aspects of the investigation that you need?

7 A Yes. When an officer-involved shooting
8 occurs, there's -- we have a team of six detectives
9 that usually respond. We also have -- in Multnomah
10 County, we have these major crimes detectives that
11 are assigned to -- so anywhere from eight to ten
12 detectives.

13 If it's a large scene where lots of
14 officers and lots of witnesses are involved, we will
15 pull from different details, such as the robbery
16 detail, the sex crimes, any -- the white collar
17 crime, the burglary, to assist in the investigation.
18 So you have a wide variety of detectives to -- to
19 assist you in this investigation. You're just not
20 doing it by yourself.

21 Q And to be clear on officer-involved
22 shootings in particular, is that only when it results
23 in a homicide or -- or do you pull in those team
24 members and outside agencies when there's a lethal
25 use of force used by a Portland Police Bureau

Examination of William Winters

1 officer?

2 A Any time there's lethal force.

3 Q So it doesn't have to result in a homicide?

4 A That is correct.

5 Q And, again, not just Portland detectives,
6 but you do bring in detectives from outside agencies?

7 A That is correct, to have that outside view
8 of what is -- of the investigation.

9 Q So outside agencies, does that include
10 Gresham Police Department?

11 A Gresham Police Department, Oregon State
12 Police, Multnomah County, Fairview, any of those
13 agencies.

14 Q Sometimes Port of Portland?

15 A Port of Portland, yes.

16 Q Now, talking about interviewing. One
17 aspect in your role as a detective, both as an
18 officer and then evolving as a detective, is
19 interviewing witnesses. From your perspective and
20 experience, do you have incidences where witnesses
21 will give different accounts of what they observed,
22 both directly and then also indirectly?

23 A Correct, yes.

24 Q And -- and -- and what is your explanation
25 for that based on your experience as to why, when

Examination of William Winters

1 interviewing multiple witnesses, you may have
2 discrepancies or differences in the various accounts
3 that you observe or listen to?

4 A Based off of that, is everybody sees
5 something different. There's nine of us in this room
6 and I could tell a story and every one of you is
7 going to have a different version.

8 Or we could put something on the wall and
9 then take it off the wall and everyone is going to
10 give a different version of what they saw, but it's
11 their own recollection of what they -- they saw.

12 Also, in these investigations when you're
13 interviewing people, we ask what you directly saw and
14 then sometimes individuals, witnesses, people that
15 are involved will give different accounts because
16 they remember different things throughout.

17 Like, they might not remember right then,
18 but a couple hours later, if we talk to them, they've
19 remembered something because they've calmed down or
20 they've even talked to someone else to kind of, like,
21 talk about what happened. And they start remembering
22 things once they -- that interview happens.

23 Q So then going to specifically your
24 experience both -- not only as a homicide detective,
25 but a robbery detective, a sexual assault detective,

Examination of William Winters

1 have you had any experience in interviewing both
2 victims as well as witnesses who've observed or
3 witnessed a traumatic event?

4 A Yes.

5 Q And what are some of the characteristics
6 that you've observed when someone witnesses, either
7 directly and is victimized by or secondhand or
8 watches from afar or close by, a traumatizing event?
9 What are some of the impacts as their --

10 A They're very --

11 Q -- recollection?

12 A They're very emotional. Some people
13 completely blank and forget everything. Some people
14 add extra because they're so drawn of, like, what
15 happened. It's just not an everyday thing that
16 people walk down the street and something of that
17 sort happens, so it jogs your memory. It's -- it
18 sticks with them.

19 And even if it's -- you talk about it three
20 to four months to a year later, even if it's this
21 investigation, peoples' memories once you start
22 talking about it, they bring it right back.

23 And every time, sometimes -- not every
24 time, but sometimes people add or forget things just
25 based off -- 'cause they want to block it out of

Examination of William Winters

1 their memory or part of them -- that's part of
2 healing for them, even as victims and as witnesses.
3 And others will replay it every day in their -- their
4 brain. They're, like -- they cannot get past that
5 part because it was so traumatizing to them at times.

6 Q So -- and -- and does the -- the witnessing
7 a traumatic -- a traumatic event or -- or incident
8 that is out of sorts or unusual from what they
9 normally would observe, does that impact their
10 ability to recollect the details of the event
11 compared to something that was not traumatic?

12 A At times, yes, based off of just the
13 traumatic incident and then -- but once you start
14 interviewing them and talking to them and going step
15 by step about what happened, people get -- give the
16 details that they need to give.

17 The -- they give the recollection of what
18 they recall. They might not recall every little
19 aspect, but they give enough to paint a picture for
20 us to continue our investigation.

21 Q Now, turning to -- from that, given that
22 there could be inconsistencies or changes either
23 based on memory, based on perspective, based on
24 angles, based on trauma, how critical then is the
25 physical evidence that you're able to obtain around a

Examination of William Winters

1 surrounding event to compare and contrast to those
2 witness statements?

3 A It's very important because it paints a
4 picture for us when witnesses, victims are able to
5 give us our perspective. So it gives us an idea of
6 where we need to go to look at evidence. And then
7 once you look at a crime scene or -- and the
8 direction we need to go, it paints the picture of
9 what we should be looking at.

10 Even if it's not every little piece of
11 evidence, the crime scene is huge. That's including
12 video surveillance. Once video surveillance, that --
13 you know, people talk about this and their perception
14 of something that happened this way, you watch video
15 surveillance, it could be something different.

16 But at least you see the different angles
17 of how we should steer our investigation of seeing
18 all different angles from one side to the other. And
19 it paints the whole picture that you can have a
20 complete and thorough investigation.

21 Q Setting aside video surveillance, what
22 about tangible objects? How important and critical
23 is it to try to freeze the tangible objects or things
24 that are changed in the environment around these
25 types of investigations to compare and contrast to

Examination of William Winters

1 the witness accounts that you receive?

2 A It's very important because if we have
3 these physical pieces of evidence, people might
4 describe something one way and at that same time,
5 once you have that physical piece of evidence and you
6 show it back to that person again, they can relate
7 right back, "Hey, that's -- yes.

8 "That is the -- that's the evidence that
9 that person had. That is that piece of evidence.
10 Hey, that's what that person was wearing. That was
11 what that person was doing. They had that in their
12 hand. They were doing this at this time. They were
13 showing that -- their demeanor at that time," just by
14 drawing back that piece of evidence that they
15 collect.

16 Q So turning your attention then to the
17 processes that are in place or the protocols that you
18 have in place for a homicide call-out or a page, can
19 you describe for the grand jury what that entails?
20 So, in other words, you're either at work or you're
21 not at work. You're, I presume, on call of some
22 sort.

23 A Mm-hmm.

24 Q Explain to the grand jury how you'd be
25 notified and activated for a homicide investigation.

Examination of William Winters

1 A We -- everybody in the homicide detail --
2 there's 12 of us -- or 10 of us, two sergeants. At
3 any one time, there is six detectives on call and one
4 sergeant. There'll be the two primary detectives.
5 There'll be two crime scene detectives and two
6 support detectives and two back-up detectives, so a
7 technical -- technically, eight.

8 We have our cell phones and we carry
9 electronic pagers. They will send us -- our sergeant
10 or BOEC, which is the Bureau of Communications, will
11 send us a page saying we need to respond to an
12 incident; that there had been a -- either a homicide,
13 an officer-involved shooting, "You need to respond to
14 this location," and we respond.

15 Our response times anywhere -- can be -- if
16 you're at work throughout the city, you know, five
17 minutes to an hour just based on traffic. If you're
18 at home, so response time from home to there. 24
19 hours a day, 7 days a week, 365. We go on rotation
20 for that.

21 Once we arrive, we meet at our mobile
22 command center. We will wait 'til all the detectives
23 that are assigned to the investigation arrive. And
24 we will receive an initial briefing from officers
25 that are involved, not directly if it's an

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1 officer-involved use of force.

2 They might designate one officer to -- or a
3 sergeant to just give a brief, general overview so we
4 know what kind of call it is, what we're kind of
5 going to and what pieces of evidence that we need to
6 be looking at, if there's outstanding people, if
7 there's other additional victims of that.

8 So we can start our investigation from
9 there. At the same time, that is when we -- we ask
10 for 9-1-1 calls to be -- to come in, so we'll --
11 reviewed from BOEC, they'll send it to us so we can
12 review those.

13 We send detectives out to start canvassing,
14 looking for video surveillance, so we can start
15 painting a picture as fast as we can of what
16 happened, even if it's -- and separating the
17 detective -- or the officers that were involved,
18 either from people that have used lethal force, that
19 were witnesses that used less-lethal force, that were
20 officers or sergeants that were on the peripheral so
21 we can interview them.

22 From there, officers that are involved in
23 lethal force or less-lethal force and deemed in
24 these, they are -- they're provided counsel along
25 with our union representation at that time.

Examination of William Winters

1 Then we go through the process of
2 processing the officer that would use lethal force or
3 less-lethal force by taking pictures of how they
4 looked at the time of the scene so we can paint a
5 picture of what they looked like at the time.

6 Then we download their firearms, any
7 weapons that they had with them other than their
8 firearm, their Taser, if there's anything that they
9 used.

10 Less lethal, same thing, we -- we download
11 their firearm to make sure that they did not use
12 their firearm and we use -- we download their -- and
13 that's called, like, a round count of how many rounds
14 possibly, so we can paint the picture of what we're
15 looking for for the crime scene.

16 And from there, we -- we build our
17 investigation by having all detectives that are sent
18 to the scene take turns interviewing people directly
19 that were involved, other than the --

20 Q And let me interrupt you real quick right
21 there. So going first to the respond to the scene,
22 is there -- is there any command -- separating
23 homicide call-outs from officer-involved
24 investigations, is there a distinction between
25 command calls to arrive at the scene versus -- on

Examination of William Winters

1 officer-involved shootings versus homicide shootings?

2 A Yes. So if -- if it's an officer-involved
3 shooting, command is notified all the way up to the
4 chief, including the mayor. Those people will
5 respond. There would be a separate command post for
6 them.

7 Q Mm-hmm.

8 A So -- 'cause they don't want to -- we don't
9 -- we need to have this investigation be thorough and
10 secure. We don't need to have it all out to
11 everyone, so we can --

12 Q Well -- well, let me -- let me interrupt
13 you there.

14 A Yeah.

15 Q So when you call command and you have a
16 separate staging area, how critical -- is it
17 important to freeze the crime scene or scenes and not
18 have any outside interference or -- or disruption
19 within those scenes as you're collecting all of the
20 evidence?

21 A That is the very first thing. Like, you
22 will -- you will -- in the crime scene, once we -- or
23 once the initial incident happens, if it is an
24 officer involved, if it's a homicide, the very first
25 thing you -- you generally see in these -- even in

Examination of William Winters

1 the 9-1-1 calls where they're broadcasting, "Hey, the
2 crime scene is up," they're securing that crime scene
3 and getting -- clearing the crime scene, so no one
4 can come into that and tamper with the evidence of
5 that.

6 They -- they put -- position officers in
7 the crime scene so people will not enter the crime
8 scene. They'll put red crime scene tape up saying,
9 "Stay out of that area."

10 They'll put additional yellow crime scene
11 tape out farther to push witnesses -- not even
12 witnesses, just looky-loo people that want to try to
13 come in and see what's going on. They'll push them
14 so we have a greater -- and make it a sterile area so
15 we know what is going on.

16 Q And so how --

17 A That --

18 Q -- how -- let me interrupt you again.

19 A Yeah.

20 Q So -- so we have a red tape you described
21 and a yellow tape described. How important is it to
22 maintain the barriers between the crime scene and
23 getting anybody out of it to avoid contamination of
24 people going into that crime scene?

25 A That is very important.

Examination of William Winters

1 Q Okay. And when you talk about -- how
2 quickly are officers either involved or witnesses
3 separated from each other to ensure that each of
4 their accounts are independently collected without
5 conversing with each other?

6 A It is instantaneous. And you will -- it is
7 a checklist, basically, that the sergeants follow.
8 Once it's broadcast shots are fired and we are -- we
9 deem that the suspect is either in custody or
10 deceased, at that same time, the arriving sergeants
11 will ask, "Hey, who was involved? Pull that person
12 out."

13 Even if they're taking that person into
14 custody, assisting with that -- as soon as that is
15 done and it's deemed that this -- the scene is safe,
16 they will start separating the officers. And they
17 will put them in individual cars.

18 They will separate them, to the officer
19 that's involved in using deadly force, to witness
20 officers, to less lethal, they'll all be positioned
21 at different cars. They are -- they are assigned TIC
22 members, which are traumatic incident members. And
23 they will sit with them.

24 They -- those officers don't ask anything
25 of the sort about the case. They just sit there to

Examination of William Winters

1 listen so they can make sure no one's there to come
2 up and say, "Hey, what happened? What happened?"
3 until the investigation starts with us, even with
4 witness officers.

5 So it's an instantaneous from -- as soon as
6 the scene is safe, that is the first thing they do.
7 They're putting the crime scene tape up to separate
8 any officers involved and going from there.

9 Q So turning your attention to this
10 particular case, how -- how -- were you working at
11 the time of this page call-out or were you called
12 from home?

13 A I was called from home.

14 Q And to be specific, we're talking about
15 Portland Police Bureau Case No. 19-258996?

16 A That is correct.

17 Q And per the steps you described, did all of
18 that occur? Was the -- was the scene frozen and
19 taped up to prevent outside contamination?

20 A Yes, it was.

21 Q And we'll go to our geography in a little
22 bit, but similar to that question, were officers that
23 were either involved with lethal force or less-lethal
24 force, were they immediately separated and -- and set
25 aside, so they could be interviewed independently of

Examination of William Winters

1 each other?

2 A Yes.

3 Q And then with regards to the officers who
4 were maybe witnesses, were they also set aside and
5 compartmentalized, so they could be interviewed
6 independently?

7 A Yes, they were.

8 Q Similarly, at some point when you arrived,
9 was there a briefing involved in this case?

10 A Yes, there was.

11 Q So first and foremost, approximately what
12 day did this happen?

13 A July 30th, 2019 at approximately -- the
14 original 9-1-1 call came at -- it says in our call
15 16:22, which would be 4:22 p.m.

16 Q And -- and when you say, "our -- our log
17 sheet," when there's calls coming in, whether it's
18 over the air or through 9-1-1, are those all recorded
19 and transcribed -- meaning, are those all documented
20 by time stamp as to how things are transpiring?

21 A Yes, they are.

22 Q And what time did the call come out for the
23 officer-involved shooting?

24 A The original call time is 16:22. Officers
25 were dispatched at 16:24.

Examination of William Winters

1 Q Okay.

2 A And they -- they arrived about two minutes
3 later and continued to talk to this individual until
4 shots are fired and broadcast at 16:40.

5 Q Which is 4:40 p.m.

6 A 4:40 p.m.

7 Q So the first call for any sort of
8 disturbance or assistance needed is 4:22 p.m.?

9 A Yes.

10 Q And then the shot fire call occurred at
11 4:40 p.m.?

12 A That is correct.

13 Q So 18 minutes between the call coming out
14 and then the shot fired?

15 A Yes.

16 Q Now, there's -- in your experience, are --
17 are -- are all homicide investigations and
18 officer-involved shootings the same?

19 A No.

20 Q Do they all occur over the same span
21 of time?

22 A No.

23 Q From your training and experience from a
24 call of a disturbance happening at 16:22 or 4:22 p.m.
25 and the shot fired call happening at 4:40 p.m., would

Examination of William Winters

1 you -- how would you characterize the evolution of
2 that call to that shot fired? Is that slow, fast,
3 not fast? How would you describe the time lapse in
4 there?

5 A To me, that is slow. There obviously
6 was -- there was a time frame that they were -- there
7 was something going on from the time that they
8 arrived to the time of the shot.

9 Q Okay. And have there been other
10 incidences, whether it's a homicide or
11 officer-involved shootings, that are more of a
12 stand-off type of characteristic, such as a hostage
13 or someone not coming out of a home when officers are
14 showing up and arriving?

15 A Yes.

16 Q And in those situations where someone is
17 behind a barrier or in a closed area, do those
18 typically take longer to evolve and resolve than the
19 18 minutes between the first call and the shot fired
20 in this case?

21 A Yes.

22 Q And by longer, is it minutes, hours,
23 potentially? How would you --

24 A It could be --

25 Q -- (indiscernible)?

Examination of William Winters

1 A -- anywhere from minutes to hours to days.

2 Q Okay. So when you arrived at this
3 location, the shot fire occurred at 4:40 p.m. When
4 you arrived, did you already have -- well, in your
5 investigation, did you learn about who was deceased?

6 A Yes, I did.

7 Q And was there a decedent, Lane Christopher
8 Martin, date of birth 7-31 of '87?

9 A Yes, he was.

10 Q And were you able to get -- at the time of
11 the briefing, did you have an identity of the officer
12 who was involved in the lethal use of force, the
13 shooting?

14 A Yes, I did.

15 Q And who was that?

16 A Rick Doran, Gary -- Gary Rick Doran.

17 Q And do you -- how long has he been in the
18 force?

19 A 12 years.

20 Q And how does Dave Kemple -- or who is David
21 Kemple?

22 A David Kemple is an acting sergeant at East
23 Precinct. He is -- was responding to the call. He
24 was at the scene and fired a less-lethal round at
25 Lane, Lane Martin.

Examination of William Winters

1 Q And was there anybody else who fired a -- a
2 less-lethal round at Mr. Martin?

3 A Yes, Officer Bianchini.

4 Q Is that Officer --

5 A Yes, that is.

6 Q -- Bianchini?

7 A Yes.

8 Q And these photos that I'm showing you, are
9 those photos taken the -- the day of the
10 investigation and incident?

11 A Yes. Approximately probably in -- anywhere
12 from an hour to an hour and a half after the
13 incident.

14 Q And in -- in what context are these photos
15 being taken?

16 A So this is at our mobile command center
17 that is brought. It's a mobile command precinct
18 that's brought to the scene. Each officer is
19 separated. They're in their car. They have their --
20 either representation with them, TIC member or a
21 union member or legal representation.

22 Then they're each individually called into
23 there and our forensic evidence team takes pictures
24 of each officer to show what they were wearing or how
25 they looked at the time of the incident, of the call.

Examination of William Winters

1 Q Now, can you describe for the grand jury
2 where this occurred?

3 A The initial call comes out at 122nd and
4 Glisan, the Sally's Beauty. And if I can stand up
5 and show you?

6 Q Sure. Why don't we switch spots just for a
7 second.

8 A Okay. No worries.

9 And what you're depicting here is a -- it
10 looks like a Google Earth image. This would be to
11 the north, was where Northeast Glisan is. And the
12 original 9-1-1 call comes out in the area of the
13 Sally Beauty in the parking lot. And then you'll see
14 as the scene continues, it will continue down.

15 It will go south on 122nd. It's pivotal.
16 There's a spot at Northeast Davis that we'll talk
17 about to Southeast 122nd and Ankeny where it
18 continues to Southeast Ash to the area of 12026
19 Southeast Ash Street in the apartment complex in the
20 doorway -- or in the alleyway where the shooting
21 occurs.

22 Q All right. So you mentioned some critical
23 spots. I'm going to --

24 A GRAND JUROR: Could you please repeat the
25 address that you just said? The --

Examination of William Winters

1 THE WITNESS: 12026 Southeast Ash Street.

2 BY MR. HANNON:

3 Q And that address, what is that kind of
4 building or location?

5 A It is an apartment complex. It is multiple
6 buildings. It looks -- it's three separate
7 buildings, two levels or, yes, three separate
8 buildings, two that are horizontal, one is diagonal.
9 So -- and then there's a two-level corridor common
10 area on the first level. There's stairs at different
11 ends to go up to the second level.

12 Q Now, you mentioned that there was several
13 points of importance, at least through the context of
14 your investigation. Why don't you highlight for us
15 the different various points that you're describing?

16 A So the original 9-1-1 call that we did --
17 that -- that calls in is a security gentleman -- or a
18 security officer who was confronting a gentleman that
19 is later identified as Lane Martin breaking into a
20 black Jeep.

21 And the security officer, as you can see,
22 confronts him in the parking lot at that point.
23 There is a confrontation that ensues. As uniformed
24 officers arrive, they tried to address and talk to
25 Lane Martin from a distance. Lane is -- continues

Examination of William Winters

1 not -- to ignore them and continues to start walking
2 southbound on 122nd Avenue.

3 As he's walking southbound on 122nd Avenue,
4 he approaches Northeast Davis Street. And you --
5 there is a black Volvo where a gentleman is sitting
6 in his car. And Lane Martin approaches this vehicle
7 and attempts to hit the vehicle and is yelling at the
8 vehicle at that time.

9 Officers are continuing to follow this
10 individual, Lane Martin, Mr. Martin, and continues
11 southbound on 122nd. When we approach 122nd and
12 Burnside at the MAX station, very busy. At 4:30 in
13 the afternoon, people are going home, 4:45, very,
14 very busy. Officers are continuing to address and
15 give commands for Lane Martin to stop.

16 It is broadcast over the dispatch by
17 uniformed officers that Lane Martin has a weapon in
18 his hand that's described as a hatchet and a knife in
19 his hands, continuing to yell, disobey commands.

20 As they continue southbound, Lane Martin
21 continues to walk southbound, there is a Unocal 76, I
22 believe it is, gas station. He is on the west side
23 of the street continuing to walk. Officers are
24 following him.

25 Numerous additional officers are arriving

Examination of William Winters

1 to try to separate the scene to try to clear
2 individuals and clear people away. Officers are
3 giving multiple commands for Lane Martin to drop the
4 knife and drop the hatchet.

5 At that time, two officers, Officer Kemple
6 -- or Acting Sergeant Kemple and Officer Bianchini
7 fire less-lethal rounds into the legs of Mr. Martin,
8 causing him to set down the hatchet and start to run
9 and jog away at a southbound pace. As he continues
10 southbound, officers continue to follow.

11 There's still numerous people in the
12 street. And he proceeds to go west on Ash. And at
13 that time, there was officers coming around off of
14 119th coming now east on Ash, stopped their patrol
15 cars and they observe Lane Martin run up into the
16 apartment complex of 12026 Southeast Ash.

17 As they -- he goes into this complex area,
18 that is where the officer-involved shooting occurs
19 and takes place.

20 Q I'll take a minute --

21 A I know I talked fast, so --

22 Q Yeah.

23 A -- (indiscernible).

24 MR. HANNON: I'm going to take a minute to
25 let the grand jurors catch up with their notes and

Examination of William Winters

1 let their hands rest for a second.

2 And before I continue, does -- does any of
3 the grand jurors have any questions so far or need
4 any of that repeated up to where we are at?

5 A GRAND JUROR: Yes, I do. Yeah. Officers
6 arrived near the MAX station. Is that -- is that the
7 16:26 time?

8 THE WITNESS: No. 16:26 would be up here
9 at Sally's Beauty.

10 A GRAND JUROR: Was there an officer on
11 site at that time?

12 THE WITNESS: Yes. There was two --

13 A GRAND JUROR: Okay.

14 MR. HANNON: -- officers at this time.
15 That's when they first make contact or attempt --

16 A GRAND JUROR: Okay.

17 THE WITNESS: -- to make contact with --

18 A GRAND JUROR: All right.

19 THE WITNESS: -- Lane Martin. And it's
20 reported at that time he does have a hatchet with him
21 and a -- it appears to be keys or a knife.

22 A GRAND JUROR: And then the shots fired,
23 was that when the less-than-lethal rounds were fired?

24 THE WITNESS: No, that is prior.

25 Less-lethal rounds are fired just prior to that,

Examination of William Winters

1 probably -- and it's not broadcast. I'd -- I'd have
2 to go back to my notes, but it's about a minute and a
3 half prior to that. Two less-lethal rounds are
4 discharged at Southeast 122nd and Ankeny, which is
5 just to the north of Ash by one block.

6 A GRAND JUROR: So that happened before
7 16:40?

8 THE WITNESS: Yes.

9 A GRAND JUROR: Okay. Got it.

10 A GRAND JUROR: Can you repeat that address
11 where the less-lethal rounds, please?

12 THE WITNESS: 122nd and Southeast Ankeny.
13 It's on the west side of the street.

14 MR. HANNON: Okay. Go ahead.

15 A GRAND JUROR: You said that the suspect
16 was reported to have a hatchet and a knife.

17 THE WITNESS: Yes.

18 A GRAND JUROR: Did that report come from
19 witnesses or officers?

20 THE WITNESS: Both.

21 A GRAND JUROR: Both? Okay.

22 A GRAND JUROR: Do you know if he was asked
23 at the -- when he was trying to break into that Jeep,
24 if he was asked to drop the weapons?

25 (Indiscernible.)

Examination of William Winters

1 MR. HANNON: Go ahead. And -- you're
2 summarizing the investigation.

3 THE WITNESS: I'm summarizing, yes. He --
4 he produced a -- a weapon at that time. The person
5 that called 9-1-1, the -- he reports that, seeing a
6 weapon and being threatened by -- with a weapon.

7 BY MR. HANNON:

8 Q And we'll get to this later, but is
9 there -- from your review of the video evidence, are
10 there instructions by officers prior to the shots
11 fired call instructing or commanding Mr. Martin to
12 drop any weapons?

13 A There was numerous commands given by
14 multiple officers to drop the hatchet, to drop the
15 knife.

16 Q So as he turns into Southeast Ash Street --

17 MR. HANNON: Did you -- was there a
18 question over here? I'm sorry.

19 BY MR. HANNON:

20 Q Okay. Was there -- as you turn in there,
21 what -- what -- what happens as they -- as he goes
22 down Southeast Ash Street?

23 A So prior to that previous slide, he's
24 walking. Lane Martin is walking. At that time when
25 the less-lethal rounds are fired and he sets down the

Examination of William Winters

1 hatchet, he now begins to jog, so he's creating
2 distance from the officers. He turns onto Southeast
3 Ash and proceeds to run westbound here.

4 And there's individuals on the street.
5 There's cars turning on the street. Officers are
6 following in cars and on foot. He continues to pick
7 up a little bit of pace, as you will see in video,
8 and he turns into the courtyard. And he's witnessed
9 by officers that he's turning into this corridor at
10 12026 Southeast Ash.

11 Q Now, when you say "cars and people," are
12 you talking about officers or non -- or not officers?

13 A Just civilians on the street. You'll --
14 you -- there are civilians on the sidewalk. There
15 are civilians standing in the street. There's
16 civilian cars. There is officers' vehicles. There's
17 officers' vehicles coming from the west to the east.

18 Q And as he gets down into this -- describe
19 kind of the layout here as Mr. Martin is going
20 towards that location.

21 A Okay. It is a straight street. It kind of
22 has a little bit of an incline and it starts to dip.
23 Right here where he turns, there is a small grassy
24 area with a sidewalk and there's approximately two to
25 three stairs into this narrow corridor no more than

Examination of William Winters

1 12 feet wide.

2 This is the start of the apartment complex
3 that goes east to west, another apartment complex
4 east to west. There is a concrete walkway up both.
5 This is the other building associated to the Ash
6 Street courtyard. And there is a walkway on the
7 second level. There are stairs at the end of this
8 corridor here.

9 And there's stairs at the other opposite
10 end here. So Lane, Mr. Martin, runs and comes into
11 this alleyway. And it tees out and there is an exit
12 that you can leave this way. So he runs this way.

13 Q And behind him, is there any other avenues
14 to run or is it walled off at the end there?

15 A It is -- there is a wood fence
16 approximately six feet tall with broken boards. So
17 -- and it's -- you can see the openings of the -- the
18 buildings on the other side. So if he had -- if he
19 was going to, he could continue running, hopping a
20 fence and continuing on.

21 Q And in addition to hopping a fence, is
22 there any -- is it just a fence or is there any
23 walkway back here as well?

24 A There is, like -- it's, like, brush, like,
25 big bushes, but it's open. It's open enough that you

Examination of William Winters

1 can walk back there and -- and continue all the way
2 out. So it's not secured back through there.

3 Q Okay. What -- what is that -- now that
4 you -- that's a placard, No. 38. Could you describe
5 for the jury -- you can go ahead -- you can go ahead
6 and sit down.

7 A Okay.

8 Q What is -- what is -- what are the placards
9 used for?

10 A Every piece of evidence that we deem
11 important that is of evidentiary value, we mark them
12 with a placard. And this would be Placard No. 38, a
13 black-and-green hatchet that was recovered at 122nd
14 and Southeast Ankeny Street.

15 Q And when you have these placards, you
16 talked earlier about how important it is to maintain
17 and freeze your crime scene to avoid contamination.
18 And to the best of your knowledge, is that how the
19 hatchet was found when this crime scene was secured?

20 A So when this -- we got the briefing and I
21 arrived on scene, it was broadcast to us and briefed
22 to us that anywhere -- where there were pieces of
23 evidence along this way from 122nd and Glisan all the
24 way to 120th and Ash, officers were positioned at
25 these different pieces of evidence because it -- it

Examination of William Winters

1 is a very large crime scene and it was a very -- and
2 we had yellow tape up everywhere.

3 But you wanted to position officers with
4 that piece of evidence so it did not come up missing,
5 it didn't get moved, it didn't disappear.

6 Q And we'll talk about it in a minute, but --
7 but -- and so to your knowledge, when they put the
8 placard there, that is essentially where the item was
9 found?

10 A That is where it was located. And that is
11 on the west side of the street of 122nd and Ash -- or
12 122nd and Ankeny.

13 Q And, again, Placard 24, was that found
14 within the scene near Mr. Lane?

15 A Yes.

16 Q And what was that?

17 A This is what described through our
18 investigation. This is what was in Mr. Lane Martin's
19 hands at the time and was found next to him after the
20 shooting was -- took place.

21 Q And so I see a pair of keys and the keys
22 are attached to a folding knife?

23 A That is correct.

24 Q Okay. And it looks like they're fastened
25 or secured to -- to each other; is that right?

Examination of William Winters

1 A It's got -- that's the clip that you would,
2 like, clip into your pants --

3 Q Mm-hmm.

4 A -- or your pocket. And that is -- it's
5 pushed up underneath that, so the keys are attached
6 to that clip.

7 MR. HANNON: Okay.

8 A GRAND JUROR: And, excuse me --

9 MR. HANNON: Yes.

10 A GRAND JUROR: -- but not -- the keys are
11 with the clip and the knife is separate?

12 THE WITNESS: It's all -- nope, they're all
13 attached --

14 A GRAND JUROR: They were --

15 THE WITNESS: -- together.

16 A GRAND JUROR: -- all on one?

17 THE WITNESS: All attached together.

18 BY MR. HANNON:

19 Q So we talked about this earlier. When you
20 arrived at the scene with the protocols followed so
21 -- such that not only Officer Doran, Officer -- or
22 Acting Sergeant Kemple and Officer Bianchini, were
23 they separated for independent interviews?

24 A Yes. They were all positioned in separate
25 patrol cars away from the scene. They're not sitting

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1 where the shooting scene is. They were down the
2 street next to the command post separated from where
3 they're at.

4 Q And similarly with -- from what you
5 gathered at the briefing and then also from what you
6 learned in the -- reviewing video evidence of this
7 investigation, were there other witness officers who
8 were at the scene of the incident and separated?

9 A Yes. And they were all positioned in
10 either police vehicles, standing next to police
11 vehicles and assigned an officer with them.

12 A GRAND JUROR: I have a question about the
13 knife, though.

14 MR. HANNON: Yes.

15 A GRAND JUROR: Was that knife able to hold
16 completely or was the tip not always out?

17 THE WITNESS: That's how we discovered it.
18 That's how it was found. Pictures that we -- when we
19 collect it and take it back to our forensic evidence
20 lab, they took it in different positions where it
21 shows that it folds all the way closed, it folds all
22 the way open.

23 A GRAND JUROR: Even with the -- attached
24 to the clip?

25 THE WITNESS: Yes.

Examination of William Winters

1 BY MR. HANNON:

2 Q Well --

3 A GRAND JUROR: Wait.

4 BY MR. HANNON:

5 Q -- that's a good question. So from your
6 experience both watching that done and examined by
7 the Forensic Evidence Division, is it -- how can you
8 explain, given that it's attached to the keys, how it
9 was able to fold open since it's attached to the
10 keys?

11 A So when we collected it just like that.
12 When it's brought back, we kept it in the same
13 position, so we set it there and it's photographed
14 that way. Then we put gloves on, demonstrate opening
15 it and it opened all the way with no problem.

16 Q So in -- in looking at it, not having huge
17 experience with knives, does -- does the knife hinge
18 open at this spot right here?

19 A That is correct. So --

20 Q And --

21 A -- it would have a swinging like an open
22 door and once it's all the way extended, it would
23 be out.

24 Q So it would swing this way?

25 A Yes.

Examination of William Winters

1 Q And when it swings --

2 A Counterclockwise.

3 Q -- this way, from what you were able to
4 observe, not only here as it was captured --

5 A Yeah.

6 Q -- by the Forensic Evidence Division,
7 clipped to the keys in this fashion, did it infringe
8 or -- or impact or get in the way of being able to
9 open all all the way?

10 A It did not.

11 MR. HANNON: Okay.

12 A GRAND JUROR: Can you -- can you tell us
13 how big that -- how many inches that --

14 THE WITNESS: I believe it was
15 three-and-a-half inches. I believe there is a slide
16 of it or a picture of it. Yes, three-and-a-half
17 inches. The blade -- the actual blade part is when
18 it's open.

19 MR. HANNON: And I'll -- I'll go ahead and
20 pull the picture up for you --

21 A GRAND JUROR: Okay.

22 MR. HANNON: -- when we get that.

23 A GRAND JUROR: Thank you.

24 MR. HANNON: Yes, there's a question over
25 here.

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1 A GRAND JUROR: So this knife that's
2 photographed here is mostly closed. And I'm guessing
3 that's how it was found on the ground?

4 THE WITNESS: When I -- yeah. When I
5 arrived at the scene --

6 A GRAND JUROR: Yeah.

7 THE WITNESS: -- that is what I was told
8 'cause it was a secure scene. No one -- through the
9 investigation and interviews, you will find that an
10 officer picked it up and moved it away from -- from
11 Mr. Martin and set it there.

12 A GRAND JUROR: Was there a witness or
13 officers reporting that the knife was open at a
14 certain point?

15 THE WITNESS: They -- at that time, no
16 one -- no one says in that position of where it was
17 exactly.

18 A GRAND JUROR: Okay.

19 MR. HANNON: And -- and you will have --

20 A GRAND JUROR: More?

21 MR. HANNON: -- officers testifying to
22 their observations, so they may be able to answer
23 that question for you more directly.

24 A GRAND JUROR: Okay.

25 A GRAND JUROR: One last for me, is that

Examination of William Winters

1 the -- is that one of those knives that is like a
2 switchblade or is that -- is it opened by gravity or
3 is it opened with your thumb?

4 THE WITNESS: Your thumb right here.
5 There's a little notch right here. It's like a
6 little screw.

7 A GRAND JUROR: Got it.

8 THE WITNESS: So you push it open that way.
9 It's a -- and once it's open like that, you can go
10 like this and it will lock open. It's not
11 centrifugal force or anything, but it's just there.
12 It will walk out. And it's not spring loaded
13 (indiscernible).

14 A GRAND JUROR: Okay.

15 BY MR. HANNON:

16 Q Can you describe the pictures that we're
17 looking at now?

18 A So this is Officer Gary Doran, who was
19 taking photos. Literally as I'm arriving, we take
20 him in, so it's about an hour after the shots fired
21 call he comes in to the command center. And we
22 download his firearm. This is the way he looked at
23 the time that we took a picture of him.

24 This is his Glock 9 millimeter. The first
25 thing we do is we ask him to remove the firearm from

Examination of William Winters

1 his holster and hand it to the forensic evidence
2 officer, who stands there with him and we remove the
3 magazine, which is this. This is the magazine that
4 was inside the gun.

5 And we rack the slide back to position it
6 back to open it to discharge a round that was in the
7 chamber ready to go. At that point, this is where we
8 download the magazine that was in the firearm. And
9 there was five rounds downloaded at that time,
10 bullets from -- or cartridges from the magazine.

11 Q And from your training and experience,
12 without hearing from Officer Doran, obviously, you
13 believe that the magazine had more rounds in it than
14 what was left in the round count?

15 A That is correct.

16 Q When doing a round count, how critical is
17 that for you and then going back to the scene of the
18 incident and trying to track the casings that were
19 involved in the incident?

20 A It's very, very important.

21 Q And just for people who may not be familiar
22 with firearms, when we talk about casings versus
23 cartridges and bullets, what -- what are we talking
24 about?

25 A So a casing is the silver part. Once the

Examination of William Winters

1 round is fired, that is the casing. That's the
2 silver part that is left. When it's all together
3 like this, this is a cartridge. That's the bullet
4 and the casing all together. And then just the
5 individual bullet is the very front part of the --
6 the round.

7 Q So when you're doing a round count and
8 you're looking for casings, what are you looking for
9 at a crime scene after doing a round count?

10 A So you're looking for the bullets. You're
11 looking for bullet strikes. You're looking for
12 shrapnel. You're looking for the casings 'cause this
13 will present a -- the position of where people are at
14 and show where -- direction of where bullets or
15 cartridges -- or the bullets, the direction they were
16 fired.

17 Q And in addition to that, does it help try
18 to get an accurate count or as accurate a count as
19 possible as to how many rounds were fired at the time
20 when (indiscernible) is used?

21 A That is correct, yes.

22 Q Thank you. And then did Mr. -- or Officer
23 Doran have other cart -- magazines with him that were
24 counted as well?

25 A Yes. On your duty belt, there is your

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1 magazine, your pouch right there. That's got two
2 additional magazines with it. These were both -- the
3 top magazine was downloaded. There was 17 rounds --
4 bullets and rounds or cartridges removed from this.
5 This is the bottom magazine. Same thing, there was
6 17 cartridges that are removed from the firearm.

7 Q So 17 in each magazine that --

8 A That --

9 Q -- was not used?

10 A That is correct.

11 Q How many were, again, used in the magazine
12 that was used?

13 A So there was -- these have a capacity of
14 17. There was five inside the magazine and one in
15 the casing -- or one in the bullet -- or one in the
16 -- the gun, which presented to me that there was
17 11 rounds fired.

18 Q Okay. And you're just using your math in
19 making that estimate?

20 A That is correct.

21 Q Now, when you arrived at the scene, was
22 there a neighborhood canvas performed to search for
23 witnesses to the incident?

24 A Yes. At that time, uniformed officers,
25 during our briefing, broadcast or informed us that

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1 they -- where this corridor was of the apartment
2 complex, they knocked on the doors of that -- of that
3 apartment complex and were able to get brief
4 statements from a few of the apartment complex
5 residents who said they didn't -- they heard the
6 shots, but did not see anything.

7 Same with the second level, they did that.
8 They did a whole neighborhood canvas. And we
9 positioned detectives to walk the route where we were
10 at to see if we could flag down and find additional
11 witnesses, civilian witnesses to what had occurred.

12 Q And -- okay. And in addition to that, was
13 there any news alerts or flash alerts or bulletins
14 released to the public seeking additional witnesses
15 who may have seen what occurred?

16 A Yes. At that time, we put out a media news
17 alert to have the -- for additional witnesses or
18 victims up to that incident, prior to that incident
19 contacting the -- we were attempting to contact the
20 registered owner of this black Jeep that was
21 supposedly called on in the 9-1-1 call. We were
22 attempting to identify the driver of the black Volvo
23 at that time.

24 Q And -- and were those responded to and were
25 you able to gain additional witnesses after those

Examination of William Winters

1 news alerts?

2 A Yes.

3 Q And post-incident in the follow-up
4 investigation related to your case, did you ever go
5 back to the apartment complex to see if there's any
6 other witnesses who observed or saw what occurred,
7 given that it was in their apartment complex?

8 A Yes. Approximately six weeks later, 'cause
9 my name and phone number and e-mail and the incident
10 had been broadcast on the news, no one had called me
11 from that apartment complex. So six weeks later --
12 or additional -- any other witnesses.

13 So I went back to the apartment complex and
14 knocked on the individual doors of the apartment
15 complex and left business cards. And no one
16 responded or answered the door or called me related
17 to the incident.

18 Q And without painting too broad of a brush,
19 how would you, in your briefing, characterize the
20 persons at the apartment complex's reception or
21 cooperation with law enforcement being present?

22 A Not very cooperative and, at times,
23 hostile.

24 Q In addition to the canvassing for
25 additional witnesses, did you canvas the area for

Examination of William Winters

1 video surveillance evidence?

2 A Yes. Part of our response when any
3 homicide scene -- not just officer involved, but
4 homicides or any major investigations, we have a --
5 in addition to the Forensic Evidence Division, we
6 have individuals who go out and collect video and
7 come respond to the scene.

8 So we can get video firsthand. We're not
9 waiting days and weeks and months after to get it.
10 So we can get our firsthand collection. So, yes, we
11 were able to collect video evidence of the incident
12 all the way tracking back up to where the incident
13 initially occurred.

14 Q And was your Forensic Evidence Team or
15 Department able to collect that evidence and kind of
16 take the various clips and put it in a chronology as
17 events unfolded?

18 A Yes.

19 Q Okay. So before we start, we're going to
20 play it once through uninterrupted. And then you can
21 point out some aspects that were relevant to your
22 investigation. And then we can play it a second time
23 and then even a third time if there's follow-up
24 questions to that.

25 A Okay.

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1 MR. HANNON: And if that's too loud, I
2 apologize. Let me know if you need me to turn it
3 down, ladies and gentlemen.

4 (**TRANSCRIBER'S NOTE:** Poor quality video
5 recording played in open court, 11:49 a.m., as
6 follows:)

7 LANE MARTIN: Back up.

8 UNIDENTIFIED OFFICER: Drop the fucking
9 hatchet, bro. Drop the axe.

10 LANE MARTIN: (Indiscernible). Guess what,
11 you guys (indiscernible) my wife (indiscernible), so
12 fuck you. Drop your shit or I'll fucking kill you,
13 mother --

14 UNIDENTIFIED OFFICER: Stop right there.

15 LANE MARTIN: And you know what? You guys
16 are fucking (indiscernible).

17 UNIDENTIFIED OFFICER: Stop.

18 LANE MARTIN: (Indiscernible.)

19 UNIDENTIFIED OFFICER: You need to stop
20 right now.

21 LANE MARTIN: (Indiscernible.)

22 UNIDENTIFIED OFFICER: Stop.

23 (Indiscernible background conversation.)

24 (Pause in proceedings, 11:50 a.m. -
25 11:53 a.m.)

Examination of William Winters

1 BY MR. HANNON:

2 Q All right. Do you want -- we'll switch
3 spots again. And tell me where you'd like me to
4 pause. And then, obviously, if the grand jurors have
5 any questions as this unfolds.

6 (Video recording resumed, 11:53 a.m.)

7 THE WITNESS: So down here --

8 (Video recording paused, 11:53 a.m.)

9 THE WITNESS: I'll stop real quick. So
10 down here is 122nd and Glisan. This avenue right
11 here is 122nd and Northeast Davis. This is the black
12 Volvo. And let me just -- there -- this is Mr. Lane
13 Martin right here.

14 (Video recording resumed, 11:53 a.m.)

15 (Indiscernible audio.)

16 THE WITNESS: Pause it real quick.

17 (Video recording paused, 11:53 a.m.)

18 THE WITNESS: What you heard there was a --
19 a bang. And that was Mr. Martin hitting the side of
20 this gentleman's car. Doesn't know who this
21 gentleman is, hits the side of his car. Down here,
22 this is where you're first starting to see the
23 uniformed officers, as you guys saw earlier. And you
24 can see the distance that they were -- they're at at
25 this time.

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1 (Video recording resumed, 11:54 a.m.)

2 UNIDENTIFIED OFFICER: Drop the fucking
3 hatchet, bro.

4 LANE MARTIN: (Indiscernible.)

5 UNIDENTIFIED OFFICER: I said drop the axe.

6 (Video recording paused, 11:54 a.m.)

7 THE WITNESS: And they're giving commands.
8 I mean, obviously, they're swearing at him at the
9 first time, "Drop the fucking axe," that kind of
10 thing. Then you'll hear additional officers say,
11 "Drop the axe. Come on. Hey, please" -- you'll hear
12 a few more officers say, "Drop the axe."

13 You'll -- you'll hear it and you'll hear
14 later that another officer says, "Hey, it'd be all
15 over with if you just drop the -- drop the axe."

16 (Video recording resumed, 11:54 a.m.)

17 LANE MARTIN: (Indiscernible.) Guess what?
18 You guys (indiscernible) my wife (indiscernible).

19 (Video recording paused, 11:54 a.m.)

20 THE WITNESS: So Mr. Martin, that's
21 rambling. As you'll hear, that he's just rambling,
22 making no sense as he's continuing on.

23 A GRAND JUROR: So I can't hear what he
24 says. It's just --

25 THE WITNESS: It's --

Examination of William Winters

1 A GRAND JUROR: -- nonsense?

2 THE WITNESS: It's -- it's just nonsense,
3 as you can kind of hear. He -- he -- we're able to
4 depict that he says something about his wife and head
5 in a box and kind of --

6 A GRAND JUROR: Mm-hmm.

7 THE WITNESS: -- once you slow it down, you
8 can listen to it.

9 A GRAND JUROR: Okay.

10 (Video recording resumed, 11:55 a.m.)

11 LANE MARTIN: You guys (indiscernible) my
12 wife (indiscernible) head in a box. So fuck you and
13 (indiscernible) fucking (indiscernible).

14 UNIDENTIFIED OFFICER: Stop right there.

15 LANE MARTIN: Hey, you know what?
16 (Indiscernible).

17 (Video recording paused, 11:55 a.m.)

18 THE WITNESS: And as you can see, officers
19 aren't running up to try to just advance on him and
20 close the distance. They're keeping distance.
21 They're trying to actively try to talk to him at that
22 time.

23 (Video recording resumed, 11:55 a.m.)

24 LANE MARTIN: You are scum.

25 UNIDENTIFIED OFFICER: You need to stop

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1 right now.

2 LANE MARTIN: (Indiscernible.)

3 THE WITNESS: Stop it real quick.

4 (Video recording paused, 11:55 a.m.)

5 THE WITNESS: So let me depict what's going
6 on here. This officer right here has lethal force
7 out. This officer has -- or his weapon out. This is
8 a Taser. This is the 40 millimeter you'll see with
9 the orange strap, 40 millimeter less-lethal rounds.
10 And this is an officer that's -- has nothing, being
11 the custody person.

12 (Video recording paused, 11:55 a.m.)

13 UNIDENTIFIED OFFICER: It can be over at
14 any time.

15 LANE MARTIN: (Indiscernible.)

16 (Indiscernible background conversation.)

17 (Video recording paused, 11:56 a.m.)

18 THE WITNESS: So this is 122nd and Burnside
19 at the MAX station. Obviously, we had talked about
20 earlier, it's 4:30 in the afternoon. People were
21 standing here. There was also people down here
22 outside the view of what's going on.

23 (Video recording resumed without sound,
24 11:56 a.m.)

25 THE WITNESS: And you'll just watch

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1 Mr. Martin continue this way. You're seeing
2 additional officers at this time starting to show up
3 to try to create a wall so -- to kind of keep people
4 back, keep vehicles back so they have a clean lane of
5 shot of, like, having that conversation or having
6 that barrier, so if they needed to create a barrier
7 there behind him.

8 A GRAND JUROR: And they had their
9 sirens on?

10 THE WITNESS: Lights and siren, yes.
11 They're responding Code 3. You'll -- through the
12 interviews and stuff like that and the 9-1-1 calls,
13 you can hear people saying, "They're responding
14 Code 3, they're responding," which means -- for
15 Code 3, means lights and siren getting there as fast
16 as they possibly and safely as they can to assist.
17 And you can see that their lights are on here.

18 A GRAND JUROR: Mm-hmm.

19 THE WITNESS: And what this officer's doing
20 right here is retrieving his 40 millimeter -- that's
21 where it's stored -- a 40 millimeter less --
22 less-lethal weapon at that time. And you can tell
23 right here people were starting to move away. They
24 sensed that there was something going on, so they're
25 starting to leave.

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1 Some people don't realize and some people
2 are (indiscernible) on what's going on.

3 A GRAND JUROR: Or just doing looky-loos?

4 THE WITNESS: As you can see still here,
5 Mr. Martin's got the axe in his hand. He has
6 something that's in his other -- it's -- it would be
7 in his left hand. And he's got it up at times. And
8 this is continuing southbound on 122nd toward Ankeny
9 at this time.

10 A GRAND JUROR: And, now, more officers are
11 now following?

12 THE WITNESS: Yeah. So this is all these
13 officers starting to show up, additional officers.
14 So as you can tell, there isn't any officers that are
15 taking any action of, like, running up to him, and,
16 you know, putting themselves in that situation.

17 So what this is showing here, this is the
18 funeral home located at 122nd and Ash pointing to the
19 north right here. So we missed the angle of the
20 Ankeny, but what you'll depict here is this is
21 Mr. Martin right here. As you see, he starts to pick
22 up pace.

23 You'll -- through -- see through the
24 investigation that is where we found that hatchet
25 down, that is where the less-lethal rounds -- the two

Examination of William Winters

1 rounds that were fired at that time were back here.

2 A GRAND JUROR: Okay.

3 A GRAND JUROR: So can you say if he
4 dropped the hatchet in response to the less-lethal
5 rounds being fired or --

6 THE WITNESS: Through the investigation --

7 A GRAND JUROR: -- after?

8 THE WITNESS: -- once you hear from the
9 other officers, you'll hear the response.

10 A GRAND JUROR: All right.

11 THE WITNESS: So, obviously, people were
12 starting to run or see what's going on. They're
13 standing here. And some move out of the way, some
14 just stand there.

15 Can you pause it real quick?

16 (Video recording paused, 11:59 a.m.)

17 THE WITNESS: So what this video depicts is
18 Lane Martin just ran up these stairs maybe two
19 seconds before Officer Santos, Officer Budey,
20 Officer Doran come up the -- up the stairs.

21 A GRAND JUROR: Just -- excuse me, but that
22 time stamp on the top there, was that checked to see
23 how accurate it was?

24 THE WITNESS: It -- it -- it is within
25 30 seconds to a minute.

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1 A GRAND JUROR: Okay. 'Cause that's --

2 THE WITNESS: 16:38, yes.

3 A GRAND JUROR: And the shots had already
4 -- the -- well, the call for shots fired had already
5 happened?

6 THE WITNESS: No, 16:40.

7 A GRAND JUROR: 16 -- 16:40.

8 But your description of the movements, the
9 shots were fired closer to where the movements --

10 THE WITNESS: So --

11 A GRAND JUROR: The call for shots have
12 been fired was closer to the less-than-lethal
13 round --

14 THE WITNESS: Yeah.

15 A GRAND JUROR: All right.

16 THE WITNESS: So about a minute and a half
17 prior is when the less-lethal rounds are fired. So
18 all the time stamps are pretty close --

19 A GRAND JUROR: Yeah.

20 THE WITNESS: -- to each other. The
21 broadcast time on here is 16:40. The time for here
22 is showing 16:38 --

23 A GRAND JUROR: Okay.

24 THE WITNESS: -- at that time.

25 (Video recording resumed without sound,

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1 12:01 p.m.)

2 BY MR. HANNON:

3 Q Now, with this last clip, did you do
4 anything with it to try to get a better gauge or
5 accuracy as to the behavior of both Officer Doran and
6 the other officers in the scene?

7 A Yes. So this is at regular speed. What we
8 did is we enhanced it and slowed it down so we could
9 capture everything as best as we could, what the
10 actions of Mr. Martin was to the actions of what the
11 officers involved were.

12 Q And, obviously, that angle does not show
13 Mr. Martin. Was there --

14 A No.

15 Q -- was there any angles that shows
16 Mr. Martin in this incident?

17 A None of the other angles of the apartment
18 complex show that, but in this, if you pause it real
19 quick.

20 MR. HANNON: Yeah.

21 (Video recording paused, 12:01 p.m.)

22 THE WITNESS: Watch this -- watch this --
23 the windows right here. It's a reflection. And it
24 will be -- it's identified as Mr. Martin. And watch
25 what he's doing in this whole motion as these guys

Examination of William Winters

1 were approaching him.

2 (Video recording resumed without sound,
3 12:02 p.m.)

4 THE WITNESS: So you saw Mr. Martin right
5 here just briefly coming at him. And it looks like,
6 as you can see, he's -- so if you back up just a
7 tiny, little bit.

8 BY MR. HANNON:

9 Q Well, I'll let it play out --

10 A Yep.

11 Q -- once and then we'll come back.

12 A Okay.

13 A GRAND JUROR: I've got to see it.

14 BY MR. HANNON:

15 Q And, again, this is slower?

16 A Yes, very slow. So this is Officer Santos.
17 He's addressing Mr. Martin right here. This is
18 Officer Budey, who has lethal -- he has his weapon
19 out. This right here is our Acting Sergeant Kemple,
20 who has his 40-millimeter. This is Officer Doran,
21 who takes a position off to the side.

22 Another female officer, Officer Piombo
23 arriving with his AR-15. And this is a shield. So
24 if you back up a tiny, little bit, we'll -- let's see
25 if that works. Yeah -- or back here. And we'll play

Examination of William Winters

1 it and I'll pause it. Slow it up. And go ahead and
2 pause -- go a little bit more, a little bit more.

3 Right there. If -- it's very quickly, but
4 if you watch, there's a poof of smoke that you see.
5 And that is when the first round is fired at
6 Lane Martin. And it's -- it goes very, very quickly,
7 but just watch.

8 You saw -- you're starting to see the
9 rounds -- or not the rounds, but you're seeing the
10 poof of smoke, which is indicating the rounds are
11 being fired at that time.

12 Q And the smoke in the reflection as well?

13 A The smoke in the reflection, you're seeing
14 it come up off of here at that -- so just prior to
15 that, if we want to slow it down and play it back,
16 focus on the mirror right here and watch Lane Martin
17 action -- actions.

18 So it was very quick, but it shows him
19 moving forward at that -- and he's got his hands in
20 his waistband area moving forward at them.

21 Q Well, and -- and just based on the
22 interactions of the officers here versus where they
23 were before, did it appear, both based on where
24 Mr. Martin's body was found coupled with -- in
25 contrast to the video, did he -- did it appear

Examination of William Winters

1 circumstantially from your investigation that he
2 changed directions or changed behavior from what --
3 what he was doing previously to what he's doing
4 there?

5 A Yeah. So all of the videos that we just
6 watched, Mr. Martin is talking to them, walking away,
7 as I'm demonstrating right here.

8 At this point, he is in this alcove or
9 there is a place for him to continue down the
10 walkway, continue back behind the apartment complex.
11 He has now turned and is addressing the officers.
12 And, now, it demonstrates that he's walking forward
13 at them at that time.

14 Q But no longer running?

15 A No longer running. He has now stopped
16 running and has now turned toward them.

17 (**TRANSCRIBER'S NOTE:** Video recording
18 stopped, 12:05 p.m.)

19 BY MR. HANNON:

20 Q Tell us about the crime scene.

21 A So the crime scene obviously started -- and
22 what this is, is our Forensic Evidence Division uses
23 a -- a scan design that's called Leica. It's --
24 basically, it takes Google Earth, (indiscernible) off
25 and it dot points and it builds a 3D image of

Examination of William Winters

1 everything that's going on.

2 So, basically, what we started with is --
3 the Forensic Evidence Division, they started
4 initially here because this was the start -- or this
5 is where the -- the -- the scene is. And so what
6 it's depicting is, is, like, Station 1, that is the
7 very first scan that they do.

8 They do multiple scans so it paints the
9 whole picture of where everything is, where there's
10 pieces of evidence that they collected. And what
11 these yellow insignias are, are we're -- we have
12 inserted pieces of evidence or that's exactly where
13 the scan was set up.

14 Q And so what -- what would you like me to
15 click on first?

16 A Click on this -- the -- the first one, the
17 01. And what this is depicting is this is the scan
18 of the -- the alleyway or the walkway of where this
19 was at, where this shooting occurred.

20 This is it's -- at the top of the two steps
21 that the officers first come out. And this is
22 looking down their angle. Well, just painting all
23 this -- all these yellow markers are different pieces
24 of evidence from gloves to casings to 40 millimeter.

25 They have a drop holster where the

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1 additional rounds are -- that's there, continuing to
2 a -- a shield for officer safety. Up here is where
3 you're going to see additional evidence.

4 Q Go to Station 2.

5 A Yes, Station 2. This is now coming from an
6 angle closer to the scene where -- looking at the
7 angle where Officer Rick Doran was standing.

8 Q And all of this equipment right here, tell
9 us about that. What is that?

10 A So these are IFAT cat -- or IFAT kits.
11 These are life-saving measures that include scissors,
12 chest seals, tourniquets, packing wounds, for
13 administering first aid for any kind of trauma
14 victim, shooting victim of that sort to try to make
15 life-saving measures.

16 Q And why --

17 A So --

18 Q -- are those out?

19 A Because as soon as the shooting occurred,
20 their first steps was they notified dispatch to start
21 Code 3 medical to come to assist on the saving the
22 life -- saving the life of Lane Martin. These
23 officers that were on scene grabbed their kits and
24 were attempting to put tourniquets on, chest seals,
25 airways, nose -- see, our nose apparatus is to help

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1 breathing for Mr. Martin.

2 What this is really getting at is right
3 here, this placard right here. This placard, No. 24,
4 is depicting the -- the knife, where we located it
5 at. It might not show it. Okay. That right there.
6 That is where that was located. And if you go back
7 one slide, that's the hatchet also.

8 Q Right there.

9 A No, it's --

10 Q Back, back. So (indiscernible)?

11 A Just right here. So the -- what you're
12 seeing here, this is the positioning of where the
13 body was. We didn't want to -- at that time, this is
14 -- Lane Martin's head was facing to -- it would be
15 the southeast. His feet were this way.

16 This was stuff that was in his pockets or
17 right there was they were attempting life-saving
18 measures. This is other evidence of the life-saving
19 stuff. Approximately a couple feet away is the
20 knife. You'll see it positioned at the base of the
21 stairs. That's where the officer dropped it and set
22 it there.

23 Q So that was --

24 A It was underneath of him when they were
25 doing life-saving measures. They had moved it over.

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1 Q Okay. Now, moving to, I think, the next.

2 A Station 5. This is looking past Lane
3 Martin where the shooting scene was. This is
4 depicting -- we found a piece of shrapnel right there
5 on the ground, a jacketing from a bullet where it
6 comes apart.

7 This is showing the angle of where Lane
8 Martin could have continued. This was an open fence,
9 a part of the chain-link fence with the wood fence
10 where you can continue around the back side of the --
11 of there.

12 Q So, in other words, the building does not
13 extend adjacent to the fence, but there's a pathway
14 behind it?

15 A There is a pathway, yes. If you exit out.
16 Those were -- that covers those of the -- the area in
17 that corridor of the -- where the shooting occurred.
18 These are just different stations of showing the --
19 the path of which Lane Martin continued. So it's
20 just showing down the -- down the street.

21 This is right here at 12 -- 122nd and Ash.
22 As you're doing the 360 view here, this is where the
23 patrol vehicles are at the corner. So we've now
24 continued back east on Ash -- Ash and, now, we're
25 looking north on 122nd now.

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1 This is where position -- patrol cars were
2 positioned. Right here, as we're continuing to the
3 north -- that's looking south right now, though, so
4 that would be 122nd and Ash. If you peer around this
5 way --

6 Q Sorry.

7 A No. Continuing down -- if we come up to
8 this area right here. This right here is what you're
9 finding here that is marked No. 33, is these
10 40-millimeter less-lethal rounds are a foam, like --
11 piece of foam that's inside of a cartridge that's
12 fired. That is where it was left.

13 And that is -- that's looking south here at
14 the direction of which way they were firing. This is
15 where it bounced off of the ground and off of
16 Mr. Martin and landed there.

17 Q (Indiscernible.)

18 A No. 11, I think it is, should show --

19 Q Sorry.

20 A Nope. Okay. So what we're seeing here is
21 additional -- where the other second foam round was
22 fired. And if you spin around the other way here,
23 right here is where the hatchet's dropped. And
24 that's the position of where it was at.

25 A GRAND JUROR: Is that the west side of

Examination of William Winters

1 the street or the --

2 THE WITNESS: This is the west side of the
3 street looking to the north right here.

4 A GRAND JUROR: Okay.

5 BY MR. HANNON:

6 Q So the next -- the next light is Burnside?

7 A Yes. And so you might have a question of,
8 why are those less-lethal rounds so distant from
9 where this hatchet was dropped?

10 So when those are fired, they do bounce off
11 of things, they do bounce around. So they can bounce
12 off the street. They can end up in different
13 positions than where they initially are. They don't
14 stick to you. And that should cover everything of
15 the -- the view painting that 3D image of everything
16 that we have.

17 Q In addition to that, did you -- in addition
18 to the forensic scan, is there a -- the firearms are
19 seized. Are they submitted for forensic analysis?

20 A Yes. Officer Doran's firearm, the
21 9 millimeter, was seized and -- along with the
22 bullets and casings that were recovered at the scene.
23 And those were sent to the Oregon State Police Crime
24 Lab for forensic testing.

25 Q And post-mortem examination, was that --

Examination of William Winters

1 did that occur?

2 A Yes. That occurred on the -- the 31st,
3 July 31st at 9:00 in the morning.

4 Q And that's where an autopsy's performed to
5 determine the cause of death?

6 A That is correct.

7 Q And one of the things about -- real quick,
8 going back to Mr. Martin. When you attended that,
9 was there anything unusual about the type of clothing
10 he wore in this particular incident that you
11 discovered at the post-mortem examination?

12 A He had his backpack on. He had gloves on.
13 Underneath of his shirt or sweatshirt was, like, a
14 neoprene -- like, those Nike football pads like --
15 like -- like quarterbacks wear or the younger kids
16 wear that's like a compression shirt that had
17 different pads through the shoulders, through the
18 chest, through the waist and on the back.

19 Q And from -- from what you could see and --
20 and watching -- and we'll have Dr. Hurst here, but
21 from the post-mortem examination, did that have any
22 sort of impact or -- on -- on some of the rounds that
23 were fired?

24 A That is correct, yes.

25 Q Meaning it blunted the force of those --

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1 A Blunted the force. It stopped some force.
2 It changed the trajectory of the angles of how it hit
3 things in the body.

4 Q And then afterwards, as you stated, there
5 was some flash alerts and additional evidence that
6 were trying to be seized or collected, i.e., witness
7 statements, video surveillance in this case.

8 A Mm-hmm.

9 Q Did you also subpoena Cascadia records of
10 Mr. Martin just to get a better understanding of what
11 might have been going on with him in this case?

12 A Yes, I did.

13 MR. HANNON: Okay. And we'll discuss that
14 further, but I think it's a good point for a break
15 unless anyone has a question right now for
16 Detective Winters.

17 Okay. Why don't we take a five-minute
18 break? Yeah.

19 (Recess taken, 12:14 p.m. - 12:24 p.m.)

20 MR. OVERSTREET: Okay. We're back on the
21 record. And this is Grand Jury Case No. 54. And now
22 going to be asking for the questions, Shawn
23 Overstreet. We're ready to go with our first
24 witness, Officer Chong.

25 If you raise your right hand and we'll

Examination of Tom Chong

1 swear you in.

2 **TOM CHONG**

3 Was thereupon called as a witness; and, having been
4 first duly sworn, was examined and testified as follows:

5 EXAMINATION

6 BY MR. OVERSTREET:

7 Q All right. Go ahead and take a seat. And
8 once you're seated, sir, go ahead and state and spell
9 your full name.

10 A My name's Tom Chong, T-o-m, C-h-o-n-g.

11 Q And, Officer Chong, where are you employed?

12 A The City of Portland.

13 Q And what do you do for the City of
14 Portland?

15 A I'm a police officer.

16 Q And how long have you been in law
17 enforcement?

18 A 25 years.

19 Q And were you working as a law enforcement
20 officer on July 30th of this year?

21 A Yes.

22 Q Okay. And, sir, did you respond to the --
23 a call-out near Southeast 122nd Avenue and Ankeny or
24 where was the call-out that you responded to?

25 A My call was at the old Safeway, 122nd and

Examination of Tom Chong

1 Glisan, south of Glisan.

2 Q And could you describe the nature of
3 the call.

4 A We received a call from a security officer
5 saying that he had witnessed a subject breaking into
6 a red Jeep. And that suspect/subject was confronting
7 the security officer saying that he was a federal
8 officer and that he had just taken out a knife. That
9 was the initial call.

10 Q So your understanding when you arrove [sic]
11 is that -- arrived -- I'm sorry -- is that somebody
12 had threatened the security officer and claimed to be
13 a federal protection officer or something like that?

14 A Yeah. So the call --

15 Q Okay.

16 A -- came from the security officer. And I
17 assume it was -- well, a security officer that was
18 hired by the old Safeway, which is vacant currently.
19 And I assumed that he was basically patrolling the
20 parking lot or whatnot.

21 And that -- he had called and said that he
22 had witnessed subject breaking into a red Jeep in the
23 parking lot. And that subject was telling the
24 security officer that he was a federal officer and he
25 had just taken out a knife.

Examination of Tom Chong

1 Q Okay.

2 A Assuming, against the -- against the
3 security officer.

4 Q So in the initial call-out, the only weapon
5 that you had any information about was possibly a
6 knife?

7 A Yes.

8 Q Okay. And were you the first officer to
9 arrive on scene?

10 A I believe I was. In the parking lot,
11 anyways. I was first unit to arrive in the Safeway
12 -- in front of the Safeway.

13 Q About how long after the initial call-out
14 did it take you to get to the parking lot?

15 A Without looking at the CAD, the printout of
16 the arrival time when we push the buttons on the
17 computer and whatnot, I could not tell you.

18 Q Okay. As a --

19 A But I was the first unit on the -- in the
20 parking lot.

21 Q Okay. And did any other officers arrive
22 simultaneously with you?

23 A Probably within a short time of each other,
24 Officer Zentner did, Officer Budey did on -- on -- he
25 came -- I think, came up from south to north, 122nd.

Examination of Tom Chong

1 And I saw Officer Santos joining us eventually in
2 this incident.

3 Q Okay. And what did you do when you first
4 initially arrived?

5 A I pulled up in front of the -- there are
6 two doors of the Safeway store. One is closest to
7 122nd and the west entrance is to the -- obviously,
8 the west of the Safeway store. I pulled up to the --
9 closer to the west entrance of the store parking lot.

10 And I saw a security officer near the front
11 entrance talking to what I believed the subject. And
12 he was -- subject was a bit closer to 122nd side.
13 And he was yelling at something that I couldn't
14 understand at the security officer.

15 Q Okay. How could you tell who was who?

16 A Well, the security officer was in uniform.

17 Q Okay.

18 A And the person was not. And they're the
19 two only people that were having some -- any kind of
20 interaction in the parking lot.

21 Q Okay. And so having observed that, what
22 did you decide to do?

23 A I got out of the car and I said something
24 to the effect of -- the officer -- the security
25 officer to come back to me so -- so he could come

Examination of Tom Chong

1 back and tell me what's going on. And, plus, I
2 wanted him to come back to my car.

3 And I think he actually saw my car when I
4 talked -- either when -- as I was pulling up or when
5 I got his attention. And he did come back to me.

6 Q The security officer did?

7 A Yeah.

8 Q Okay. And when you first arrive and you
9 observe the person who you believe was the subject,
10 did you notice any weapons out at that time?

11 A I couldn't see. He was, I would say,
12 approximately 40 yards away or so from where I kind
13 of was. And, plus, I was going to the back of my
14 patrol car to grab less-lethal weapon system, which
15 is what we call 40-millimeter now. Used to be bean
16 bag, but now it's basically a different platform, but
17 still less -- less-lethal rounds that we use.

18 Q And why did you choose to retrieve the
19 less lethal?

20 A Given the initial call that he had pulled
21 out a knife on the security officer.

22 Q Okay. And so you retrieved your
23 less-than-lethal --

24 A From the back of my --

25 Q -- launcher?

Examination of Tom Chong

1 A -- patrol car, yeah.

2 Q Okay. And where did you go after you
3 retrieved that launcher?

4 A By then, the subject had walked toward
5 122nd and he made a right turn, so he was kind of out
6 of my view and he would have been going southbound on
7 the west side of 122nd just the east side of the --
8 east side of the Safeway. So he was -- I couldn't
9 see him anymore.

10 Q Okay. Did you go after him in that
11 direction?

12 A I got -- I retrieved my less-lethal weapon
13 and I got back in the car and I decide to drive up
14 there where he was. And then I stopped just shy of
15 the -- where the drive -- driveway would be getting
16 onto 122nd.

17 Q And did you regain visual contact with him
18 at that time?

19 A Yes. By then, Officer Zentner was trying
20 to communicate with him.

21 Q Okay. And had any information been updated
22 over the radio about current status of any weapons at
23 that point?

24 A I think I heard Officer Zentner say that he
25 was waving keys and something about he started

Examination of Tom Chong

1 yelling.

2 Q Okay. And when you regained visual
3 contact, did you notice anything about the suspect --

4 A By the time --

5 Q -- the subject?

6 A -- I got out of the car and joined
7 Officer Zentner, she was trying to establish
8 communication with him. And subject kind of held up
9 something, what I thought was, like, maybe his ID
10 card or it looked like about the size of an ID card
11 kind of displaying like this.

12 And I couldn't see what it was exactly. I
13 couldn't understand what he was saying to us. Then I
14 noticed he had a hatchet on his beltline.

15 Q On his belt?

16 A I don't know if it was a beltline. It was
17 just basically dangling. It was -- it was placed in
18 along his waistline. He wasn't holding onto it, so
19 it was there.

20 Q Okay. So not in his hand, but somewhere
21 attached --

22 A He wasn't hold --

23 Q -- to his person?

24 A Yeah, he wasn't holding --

25 Q Okay.

Examination of Tom Chong

1 A -- onto it.

2 Q And could you describe to the best of your
3 ability what this hatchet looked like?

4 A I would say 12, 15 inches long, green
5 handle. It's one of those things that you can buy at
6 the regular sporting store, Dick's, things like that.

7 Q Okay. And was it -- did it have any cover
8 or anything --

9 A No.

10 Q -- like that?

11 Okay. Did you issue any warnings to the
12 subject about possible use of force?

13 A Not right away because I wanted Officer --
14 I didn't want to interrupt Officer Zentner's -- I
15 didn't know what she had established up to that
16 point. So I wait a bit, but I did give a force
17 warning.

18 Q Okay. And what is a force warning?

19 A Something that we try to do every time that
20 it's feasible before we deploy any kind of use of
21 force, whether it be hands on, less-lethal rounds,
22 including deadly force, pepper spray, Taser.

23 It's something that we try to do any time
24 we anticipate any kind of force -- we're about to use
25 force, give the chance that -- that force can be used

Examination of Tom Chong

1 against them and try to gain their compliance.

2 Q Okay. And I -- you sort of just touched on
3 this at the end there. What is the purpose of
4 getting -- giving that warning?

5 A Just let them know that they're about to
6 be -- force is about to be used against them if they
7 don't comply with what we're asking to do, following
8 our orders and whatnot.

9 Q Okay. And does that give the individual an
10 opportunity to stop what they're doing --

11 A Yes.

12 Q -- and comply with the commands?

13 A That is part of our objective, is to give
14 that warning out there, let them know that could
15 happen; and, hopefully, that they comply with what
16 we're asking to do; and, hopefully, that we have
17 enough opportunity to give them chance to comply with
18 our command.

19 Q Okay. So after having now seen the hatchet
20 on his person, did you give a warning to the subject
21 that if he reached for the hatchet, that he could
22 potentially be shot with the less-than-lethal round?

23 A I did.

24 Q Okay. How did he respond to you giving him
25 that force warning?

Examination of Tom Chong

1 A About that time, he grabbed it and he
2 was -- it was -- just, literally, he was that quick,
3 grabbed it out and it was already in his hand.

4 Q So, now, at that point, he has the hatchet
5 in his hand immediately --

6 A Yes.

7 Q -- after you've given the force warning?

8 A Yes.

9 Q Okay. And what did he do with that
10 hatchet?

11 A He just held it. He just held it in his
12 right hand and didn't swing. He didn't come at us or
13 anything like that.

14 Q Okay. Was he still moving at that point or
15 was he stopped and --

16 A He had --

17 Q -- addressing you?

18 A He was -- he wasn't "moving" moving, but he
19 was pacing back and forth, if you will.

20 Q And about where on 122nd are you at that
21 point?

22 A If -- 100 -- there's Safeway there right on
23 122nd. The east side of the building faces 122nd.
24 So there's a -- if -- if this is building of Safeway,
25 there is corner there. And then right about where my

Examination of Tom Chong

1 finger would be, there's a bus stop right there.

2 So the reason why I couldn't see him
3 initially is because I was driving down and there's
4 pillar and whatnot and he had come down just south of
5 the building. So that's why I couldn't see him until
6 I got on -- got out of my car on foot and then
7 joined him.

8 So he's literally just -- that would be the
9 east end, the drive of -- of -- driveway of the old
10 Safeway. I guess that's the best description I can
11 provide with you without pointing at the map.

12 Q Okay. And we'll probably go to the map
13 here in just a moment, but after -- so you've given
14 him this force warning. He's pulled out the hatchet.
15 Did you deploy the 40-millimeter round at that point?

16 A I did not.

17 Q And why not?

18 A By then, he -- while I was doing that, he
19 had taken out. And by the time I had raised my 40 --
20 considered deploying my 40 less-lethal round, there
21 were some people around. I didn't like my backdrop.

22 Officer Budey, I saw -- prior to that
23 force, giving warning and so forth, I saw him with a
24 -- I think his car was on 122nd in the street. And I
25 saw he had his pistol out.

Examination of Tom Chong

1 So he would be my cover officer, lethal --
2 lethal cover officer. And I didn't know what his
3 angle was had he had to use -- deploy deadly force.
4 I didn't know what his angle was, what his backdrop
5 was.

6 Q Okay.

7 A I've used a 40 millimeter personally at
8 that old Safeway for, as a matter of fact, a previous
9 year on a different matter. And on that particular
10 incident -- incident, we had to use four rounds for
11 sure, maybe a fifth round on a subject and it wasn't
12 effective.

13 Q Hmm.

14 A So I wanted to have a -- definitely have a
15 second officer with a 40 millimeter and make sure
16 that we were on the same page. And my backdrop
17 wasn't very good.

18 Q And --

19 A I could see Officer Budey's backdrop wasn't
20 very good either.

21 Q Okay. And did any of the other officers
22 that were on scene at that time have any other of
23 their tools out and available as well that you
24 noticed?

25 A Officer Zentner did not. She was -- tried

Examination of Tom Chong

1 to talk to him. I believe Officer Santos to the left
2 of me, he had his Taser out.

3 MR. OVERSTREET: Okay. So --

4 BY MR. HANNON:

5 Q And I'm sorry, can I interrupt real quick
6 with one question? Dave Hannon. When you keep
7 saying "backdrop," can you describe for the grand
8 jury what you mean by "backdrop"?

9 A There were some people around. We were --
10 we're -- the immediate surrounding area there. And
11 had he moved, because he was kind of pacing back and
12 forth, and had I missed or it's ineffective, for that
13 matter, our 40-millimeter launch system is a single
14 round, which means I would have to physically eject a
15 round, take it out -- remove it and reload out -- out
16 of a Velcro pouch into that round before I can deploy
17 second round.

18 So it would have taken me -- me some time
19 to do that on top of if it was ineffective or,
20 perhaps, I missed. So that was another concern that
21 I had. So backdrop would basically -- if you're a
22 hunter, for example, if you got your prey there and
23 there are other prey there that you do not intend to
24 shoot, for example.

25 Or maybe there are other buildings that --

Examination of Tom Chong

1 or other things that's kind of in your way that you
2 don't want to necessarily hit or injure if you're a
3 hunter.

4 Q Okay.

5 A Did that makes sense?

6 Q Meaning --

7 A I'm try --

8 Q -- you were worried about, if you missed,
9 what you might hit?

10 A Yes.

11 Q Okay. Thank you.

12 A Plus, I was worried about the
13 ineffectiveness of the 40 millimeter based on my
14 personal experience. And, again, concerned about if
15 -- if deadly force had to be used by Officer Budey,
16 because he was a different standing point than I was,
17 I didn't know what his backdrop would have been
18 either.

19 MR. HANNON: Thank you.

20 BY MR. OVERSTREET:

21 Q And in your training and experience with
22 the 40-millimeter launcher, you sort of mentioned
23 this, on a previous incident, is your training and
24 experience that sometimes it takes more than one,
25 two, three, four or five-plus rounds to gain control

Examination of Tom Chong

1 of a subject?

2 A I've heard those situations and I've
3 personally experienced at the same old Safeway store
4 one year previously on a different matter. And I was
5 involved in that one as well as one of the -- two of
6 the 40-millimeter operators.

7 Q Okay. Now, do you recall being interviewed
8 by Detective Greenlee after this incident?

9 A Yes.

10 Q Okay. Do you recall telling Detective
11 Greenlee that you didn't -- you did not want to
12 precipitate a deadly force incident?

13 A Correct.

14 Q What was the nature of that comment? Why
15 did you say that at that point?

16 A Again, just because he had hatchet doesn't
17 mean that I should deploy my less lethal, even though
18 that was in the back of my mind. We still need to
19 assess, see if we can deescalate somehow.

20 There was no immediate action that he took
21 that I perceived as -- that that's -- that would
22 cause it to deadly force. My backdrop was an issue,
23 as I stated.

24 And I didn't want -- again, (indiscernible)
25 something, if I were to fire my less-lethal round and

Examination of Tom Chong

1 it was ineffective or should he come at us with a
2 knife -- a hatchet in his hand now, now we -- only
3 option that we would have at that point would be to
4 use deadly force.

5 And, again, not the ideal situation with
6 people around the -- our immediate surrounding areas,
7 so that was a concern, meaning backdrop and whatnot.
8 So I wanted to delay as long as we could without
9 using any force, see if we could talk him into it.
10 Officer Zentner was trying to do that.

11 Q Okay. And, Officer Chong, have you been
12 trained in deescalation tactics?

13 A We all have. And there's ongoing training
14 for all of us every in-service.

15 Q You receive ongoing training with
16 deescalation tactics?

17 A Yes, we have. And it's still being --
18 ongoing training throughout -- every in-service, we
19 have scenario training and whatnot.

20 Q And you've mentioned a couple of
21 deescalation tactics that you took up to that point.
22 What -- what were some of the other deescalation
23 tactics that you were trying to employ?

24 A It was unfortunately right at the shift
25 change. Officer -- the -- three other officers than

Examination of Tom Chong

1 myself were -- none of us were ECIT-trained officers,
2 so I wanted to get the ECIT officers there. I wanted
3 to get the second officer with another 40-millimeter
4 operator there.

5 And I knew we were going to have more
6 officers soon because right at the shift change; but,
7 unfortunately, right at that moment, we didn't have
8 enough people, resources to do -- do what we wanted
9 to do.

10 Q And I'm going to have you explain -- you
11 said ECIT. What is ECIT?

12 A It's an enhanced crisis officer. We all
13 have -- all Portland police officers have received
14 40 hours of CIT training. Some of the officers have
15 gone through enhanced portion of that with additional
16 hours of training.

17 We utilize them for a lot of calls, as a
18 matter of fact, not just for -- mainly, a person in
19 crisis, whether it be suicidal ideations or people on
20 the bridge or something like this.

21 Q And so I'll have you start with CIT
22 training. You said, "all of us go through it,"
23 meaning all police officers go through CIT training?

24 A Yes.

25 Q And you sort of described what that was.

Examination of Tom Chong

1 But then there's this ECIT that you're attempting to
2 call it, this enhanced version?

3 A Yes.

4 Q And how -- do they just receive more
5 training in that --

6 A Correct.

7 Q -- area?

8 A Yes.

9 Q Okay. And so you were hoping to call-out
10 somebody who had more experience in one of those
11 area --

12 A Yes.

13 Q -- or in the area?

14 A Yes.

15 Q Okay. And was that done at that time? Was
16 an -- was an ECIT officer called for at that time?

17 A None of us were and I wanted to get
18 somebody there. And it was just a matter of locating
19 one through -- by that time, the afternoon shift was
20 about to come on. And if we didn't have one, the --
21 our standard policy is we would request one through
22 other precincts, whether it be North or Central
23 Precincts.

24 Q Okay. And so how do -- when you're dealing
25 with this active situation, so how do you make that

Examination of Tom Chong

1 request?

2 A Through the radio.

3 Q Okay. So through the radio, you requested
4 for an ECIT officer to respond?

5 A I don't remember if I had a chance to do
6 the ECIT because this happened quickly. And by the
7 time I turned around and saw what was going on, by
8 the time I tried the force warning, he had a hatchet
9 in his hand and he wasn't -- it was shortly after
10 that he start walking southbound toward Burnside.

11 Q And so did you also request for an
12 additional 40-millimeter operator at that time
13 as well?

14 A That, I believe I did, yes.

15 Q Okay. And then that's when he left and
16 proceeded to walk southbound on 122nd?

17 A Yes.

18 Q Okay. And he still had the hatchet in his
19 hand?

20 A Yes.

21 Q Okay. But no use of force had been
22 deployed at that point?

23 A Correct.

24 Q Okay. Now, as you approached Burnside
25 Street -- and I am going to turn to the map here.

Examination of Tom Chong

1 A Okay.

2 Q Do you recognize this as an overview of
3 where -- Northeast 122nd and the Burnside area?

4 A Yes.

5 Q Okay. And is this the parking lot that you
6 were referring to, the --

7 A Yes, sir.

8 Q -- Safeway parking lot?

9 Okay. So, now, we've moved down toward
10 Burnside. That's the point that I want to move
11 towards now. Once you -- as you're approaching
12 Burnside, is that -- is it becoming more populated at
13 that time? Are there more people around or --

14 A Oh, yes. I mean, 122nd and Burnside both
15 being major streets with bus lines on both sides, bus
16 stops in both locations, plus the MAX running through
17 the Burnside there, yeah.

18 Q Okay. And about how many officers do you
19 think were following Mr. -- the subject as you
20 approach Burnside?

21 A I think all four of us were.

22 Q All four of you?

23 A Including myself --

24 Q Okay.

25 A -- yes.

Examination of Tom Chong

1 Q And as you're doing that, are you still
2 giving commands?

3 A I don't believe I said anything. I think
4 Officer Zentner may have some -- said something. She
5 was trying to just talk to him, I think, from a
6 distance.

7 Once he started walking southbound and --
8 and more police cars were on the way coming up from
9 Stark and toward us, I knew that more officers were
10 coming to our call.

11 Q Okay.

12 A So I -- I thought there was no need to
13 close the distance and be right up on his heels. He
14 was just walking.

15 Granted, he still had a hatchet in his
16 hand, but we want -- we didn't want to, again,
17 precipitate anything and make him do something that
18 maybe he didn't want to do. So we kept our distance
19 and knowing that there were more officers approaching
20 us from the south end.

21 Q Okay. As you arrived at Burnside from the
22 north, where did the subject go? Did he -- did he
23 cross Burnside?

24 A He did. He crossed Burnside and -- and
25 stayed on 122nd.

Examination of Tom Chong

1 Q Okay. And once he got to the other side of
2 Burnside, do you recall telling Detective Greenlee
3 that it was at that point you heard a 40 --
4 40-millimeter launch or what sounded like one?

5 A Yes.

6 Q Okay. Could you describe what you were
7 trying to tell Detective Greenlee at that time? What
8 did you hear?

9 A It sound like some -- one of the officers
10 on 122nd fired a 4 -- 40-millimeter round.

11 Q Okay. It was not you, though?

12 A No, it was not me.

13 Q Did you know who else was also in
14 possession of a 40-millimeter launcher at that point?

15 A I do not know which officer fired.

16 Q Okay. And did you see a 40-millimeter
17 launcher be fired or was it just the sound that --

18 A It sounded like it was -- that's what was
19 being --

20 Q Okay.

21 A -- utilized.

22 Q Did you have eyes on the subject at that
23 point?

24 A Yes and no. We weren't able -- he was --
25 he was still walking. And there was some other

Examination of Tom Chong

1 people and whatnot, so he wasn't, like, clear of my
2 view from myself to this gentleman.

3 Q Okay. And just so I -- we can have a clear
4 understanding of kind of where people are positioned
5 at this point, it's you and about three other
6 officers walking from north to south; is that
7 correct?

8 A Yes.

9 Q Okay. And, now, you're hearing possibly a
10 40-millimeter launcher. And is it because other
11 officers are joining you at that point? Is that sort
12 of the convergence?

13 A Yes.

14 Q Okay.

15 A So they're coming up from 122nd and all
16 along 20 -- 122nd (indiscernible) their cars. And my
17 hope was that we would basically cut off his path or
18 place him somewhere with a better backdrop, perhaps;
19 and, basically, immobilize him where he cannot wander
20 onto the MAX station or get on the bus. So that was
21 my hope.

22 And I didn't know what the other officers'
23 plan was because there were more officers coming up
24 and I'm sure they were formulating their own plan
25 from their perspective.

Examination of Tom Chong

1 Q Okay. Was there any discussion over the
2 radio about positioning that you recall?

3 A I did not -- once we get an instance like
4 this, I think it's very important that officers stay
5 off the air for the most part unless we got some
6 crucial information to share with each other, rather
7 than everybody get on there and say, "He's still
8 walking southbound," or whatnot.

9 So we -- all of us along -- positioned on
10 122nd knew where he was because he wasn't running or
11 hiding behind buildings or anything like that. So I
12 stayed off the air and I yielded the air time to the
13 officers that were to the south of us in case they
14 wanted to relay some information that -- maybe pass
15 on their plans to us or other officers.

16 Q So at the point of -- I refer to as
17 convergence of the -- this other group of officers
18 that were arriving, were they closer to the subject
19 than you were at that point?

20 A Yes.

21 Q Okay.

22 A Again, we just kind of, like -- I don't
23 want to say completely backed off, but we gave more
24 room because he was walking toward where they were,
25 officer -- other officers were. So the only concern

Examination of Tom Chong

1 that I had was that maybe he would run to the west
2 and we would lose sight of him.

3 Q Okay. And when you heard that -- that 40
4 -- what you thought was a 40-millimeter launcher, did
5 you see that -- that that had any effect on the
6 subject?

7 A Ah, I saw the axe get dropped.

8 Q Okay.

9 A And I assumed that based on what I had
10 heard, I thought maybe he was impacted by the
11 40-millimeter round.

12 Q So you hear the launcher and then almost
13 immediately you see the axe get dropped?

14 A Yes.

15 Q Okay. And did the subject pick the axe
16 back up or did you -- did you see what he did
17 with it?

18 A I didn't see the axe back in his hand.

19 Q Okay. So you saw the axe go to the ground?

20 A Yes.

21 Q And then where did the subject go?

22 A He -- then he kind of got onto the traffic
23 lanes of the southbound lanes of 122nd. And once the
24 axe was dropped and what I thought was a
25 40 millimeter being launched or utilized against him,

Examination of Tom Chong

1 I thought we were done.

2 I thought he was going to give up at that
3 point. And he didn't make any attempt to pick up the
4 axe again, so I thought, okay. I guess we'll take
5 him into custody now and I thought we were pretty
6 much done at that point.

7 But he started walking southbound, so my --
8 my next initial thought was, oh, maybe he's going to
9 run instead. Then he kind of did run. Then he kind
10 of did a little diagonal going to the other lane,
11 like, somewhat.

12 So I thought maybe he was going to run
13 across because everywhere -- all officers are facing
14 pretty much northbound and facing west where he was.
15 So I thought maybe he was going to run.

16 So by the time he gets -- he crosses the --
17 122nd, officers backs would be toward him and we
18 could -- we would lose sight of him. But he didn't
19 do that either. He continued down 122nd. And,
20 eventually, he ran westbound on Ash.

21 Q Okay. And at the time that he dropped the
22 -- the hatchet or the axe, about how far away were
23 you, do you think, from him?

24 A I think I was either on the north side of
25 Burnside or starting to cross the track lines there.

Examination of Tom Chong

1 I'm not sure exactly where I was.

2 Q Okay. And so you were a pretty good
3 distance away from him at that point?

4 A Yeah.

5 Q Okay. Did you hear whether any more
6 less-than-lethal rounds were fired at that point?

7 A No.

8 Q You just heard the one?

9 A I think I heard one, maybe two, but I -- I
10 heard one for sure.

11 Q Okay. Did you ever go up to the area where
12 the axe had been dropped or did you stay back?

13 A I -- I didn't go up there once -- once that
14 -- what I heard was a 40 millimeter being launched,
15 there was no reason for us to continue. So I let --
16 I was going to let the other officers handle the
17 custody portion of that.

18 Q Okay. So you didn't pursue --

19 A Not --

20 Q -- the subject anymore?

21 A Not -- I didn't go up to him in -- in --
22 right after the axe was dropped --

23 Q Okay.

24 A -- because I want -- I didn't want to get
25 into the -- where -- the area they were -- they were

Examination of Tom Chong

1 taking -- where they would have been taken into
2 custody.

3 Q Okay.

4 A I didn't go up -- I didn't cross Burnside
5 then until I realized that he was going to continue
6 to go southbound.

7 Q Okay.

8 A So that's -- that's why, at that point, I
9 did cross 120 -- or Burnside, excuse me, on the south
10 side of Burnside.

11 Q Okay. And given that he's now a pretty
12 good distance away from you, did you -- were you
13 running towards him? Were you just walking or --

14 A I did not chase him. There were plenty of
15 officers there to the south of us still, so once he
16 ran westbound on Ash, a -- a different group of
17 officers, not my officers and myself, a different
18 group of officers went down on Ash.

19 Q Okay. And did you hear any gunshots?

20 A I did.

21 Q Do you recall about how many you heard?

22 A I think there were more, but I was kind of
23 taken back initially. I was -- I wasn't expecting
24 that. That area -- previously, we've had shots fired
25 called there before. So, initially, I was kind of

Examination of Tom Chong

1 taken back.

2 I wasn't quite sure if the officers had run
3 into some unknown situation and somebody had a gun
4 and saw large presences of -- of police and thinking
5 that officers were after that individual, perhaps,
6 not our -- our subject, but somebody else, perhaps.

7 So I was kind of a little confused as to,
8 did they just run into something that they didn't --
9 wasn't expecting and that's where shots are being
10 fired? So it took me a few seconds.

11 And by the time I heard more shots, I think
12 I heard four or five, probably -- it was probably
13 more; but, again, I wasn't standing there counting
14 the number of shots either.

15 Q Sure. And when you were hearing these
16 shots, about where was your location?

17 A I was -- once he ran down on Ash from 122nd
18 westbound, I moved up to Ankeny, which would be --
19 Ankeny would be one street to the south of Burnside.
20 So Ash -- it would be Ash, Ankeny and Burnside. So I
21 moved to Ankeny and 122nd just in case he decided to
22 double back toward Burnside, so I kept an eye out
23 down Ankeny Street and 122nd to make sure he didn't
24 cross anything.

25 Q Okay. And so you're still a little ways

Examination of Tom Chong

1 distance from Ash Street?

2 A Yeah.

3 Q Okay. So you didn't see who fired the
4 shots, you didn't know where --

5 A No.

6 Q -- they came from necessarily, you just
7 heard some shots?

8 A Correct.

9 Q What sounded like gunshots at least.
10 Okay. And then did you go to the location
11 where the shots were fired at that point?

12 A No. I stayed at 122nd. EMS had been
13 summoned by that time and whatnot. And Sergeant
14 Beltz (phonetic) arrived, of course, and then he
15 parked his car at 122nd and Ash right at the driveway
16 -- I mean, the street there on -- right on Ash.

17 So I stayed up there. He positioned the
18 car so no cars could go down on Ash from 122nd. But
19 at the same time, I knew we had medical folks coming,
20 so I want to stand by and move the car to access --
21 allow access for fire trucks and ambulances.

22 Q Okay. And then after that, did that sort
23 of end your involvement with that subject? Did you
24 return to Safeway and contact the security officer at
25 that point?

Examination of Tom Chong

1 A I did return to Safeway and contacted
2 the -- our initial caller.

3 MR. OVERSTREET: Okay. Does anybody have
4 any questions at this point?

5 A GRAND JUROR: Do the -- they're called
6 fake -- I can't remember how they're called, a
7 40-millimeter -- millimeters, are they something
8 different than the actual gun?

9 THE WITNESS: Yes. A gun --

10 A GRAND JUROR: So (indiscernible) --

11 THE WITNESS: -- would be like --

12 A GRAND JUROR: -- (indiscernible)
13 question.

14 THE WITNESS: -- it would be a loud pop.
15 This is more a -- like -- I don't want to make a
16 wrong sound and be wrong here, but it'd be more like
17 a plunk. It was definitely a distinct sound. So,
18 yes.

19 BY MR. OVERSTREET:

20 Q It sounds different than a --

21 A Absolutely.

22 Q -- regular firearm?

23 A Yes.

24 MR. OVERSTREET: Okay. Any other
25 questions?

Examination of Davonne Zentner

1 Okay. Thank you very much.

2 **DAVONNE ZENTNER**

3 Was thereupon called as a witness; and, having been
4 first duly sworn, was examined and testified as follows:

5 EXAMINATION

6 BY MR. OVERSTREET:

7 Q And once you're seated, go ahead and state
8 and spell your full name, please.

9 A Davonne Zentner, D-a-v-o-n-n-e,
10 Z-e-n-t-n-e-r.

11 Q All right. And where -- where are you
12 employed?

13 A The City of Portland.

14 Q Okay. And you work for the Portland Police
15 Bureau?

16 A I do.

17 Q And how long have you been in law
18 enforcement?

19 A Since 2001.

20 Q And were you working as a police officer on
21 July 30th of 2019?

22 A Yes.

23 Q And were you also dispatched to the Safeway
24 located out on 122nd Avenue?

25 A Yes.

Examination of Davonne Zentner

1 Q Okay. And were you alone in your patrol
2 car or did you have a partner?

3 A I was alone.

4 Q And were you one of the first people to
5 arrive on scene?

6 A Yes.

7 Q About how long after the call do you
8 believe it was that you arrived on scene?

9 A Ah, probably four minutes, I guess --

10 Q Mm-hmm.

11 A -- something like that. I wasn't super
12 close, but I went with lights and sirens.

13 Q Okay. And what kind of information did you
14 have from dispatch regarding what you were responding
15 to?

16 A Somebody was waving around a weapon and
17 threatening people with an edged weapon.

18 Q And so when you arrived, were you able to
19 tell who the parties were?

20 A Yes.

21 Q Okay. And were there -- were -- were you
22 one of the first officers on scene?

23 A Yeah. Tommy, who was just in here, he went
24 and spoke to the security guard, so he was there
25 before me.

Examination of Davonne Zentner

1 Q Okay.

2 A But Santos and I basically pulled up right
3 at the same time.

4 Q Okay.

5 A And we got eyes on the guy --

6 Q And so what --

7 A -- right away.

8 Q -- what did you observe when you first
9 arrived?

10 A He was yelling and throwing clothing around
11 and acting really jerky and appeared to be under the
12 influence of something.

13 Q Okay. Did you try to make contact with
14 him --

15 A Yeah.

16 Q -- when you first arrived?

17 A I did.

18 Q And how did you attempt to make contact
19 with him?

20 A I stood next to my car because of the issue
21 with the weapon, so I didn't want him to charge me or
22 anything like that; tried to stay in a safe place.

23 But I did yell to him, like, "Hey, dude,
24 what's going on?" and try to just -- try to initiate
25 some kind of conversation with him. But he wasn't

Examination of Davonne Zentner

1 interested in listening to me. He was more
2 interested in just yelling and cursing.

3 Q And you said you had received some
4 information regarding a possible weapon. Did you
5 receive any information as to what kind of weapon you
6 were possibly going to encounter?

7 A I heard a knife and an axe, yeah.

8 Q Okay. But you weren't sure if that meant
9 two separate items or if it was the same item that
10 was being referred to or what was your impression?

11 A I don't remember what I thought at that
12 moment.

13 Q Okay. And so when you first made contact
14 with him, did you observe that he had any weapons on
15 him?

16 A I couldn't see any weapons. He was shaking
17 some keys at me.

18 Q Okay. But you couldn't see if --

19 A Not right then.

20 Q Okay. So what happened after your initial
21 encounter with him? Did he stay there and engage
22 with you or what did -- how did he respond?

23 A He initially was basically ignoring me
24 at -- from moment to the next moment, he'd pay
25 attention to me and was just looking at me and

Examination of Davonne Zentner

1 yelling. And it was me and Santos standing side by
2 side at that point.

3 And he was shaking the keys around. And
4 then he would turn and take a few steps and then he
5 would come back. So he was unsure, I think, at that
6 -- at that point, he wanted to leave or not or if he
7 should stay, so he was kind of -- it -- it seemed
8 like he was, like, dancing around for a second.

9 But then eventually, Tommy came over to us
10 and then -- Tommy Chong. And then we were able to --
11 to -- to try to call him over to us so we could talk
12 closer. And that's when I noticed the axe handle
13 sticking out of his pants.

14 Q Okay. Could you describe the axe to the
15 best of your ability?

16 A It was like a -- a hatchet type of axe,
17 short handle, like, a foot long maybe, and it was
18 like a fluorescent greenish yellow color.

19 Q Okay. Once that was -- once you noticed
20 that, did you give him any sort of commands or did
21 you hear --

22 A I did.

23 Q -- any commands?

24 A I -- I told Tommy, who was standing next to
25 me, I said, "He's got an axe in his pants." And then

Examination of Davonne Zentner

1 Tommy said, "Hey, dude, we see you have a weapon
2 there. Don't grab it." And then, of course, the guy
3 took -- pulls it out of his pants.

4 Q Immediately after --

5 A Like --

6 Q -- the --

7 A Yeah, yeah.

8 Q Mm-hmm, okay.

9 A And he didn't charge us with it, but he was
10 still, you know, kind of playing with it and just
11 showing it off.

12 Q What was his demeanor? I mean, was he --
13 is he playful or is he --

14 A No. He was --

15 Q -- agitated?

16 A -- very --

17 Q What's kind of --

18 A -- agitated and angry and yelling things
19 that either didn't make sense or I couldn't quite
20 hear a lot of it either. He was kind of far. But it
21 seemed like the things that I was catching just
22 didn't make any sense.

23 Q Okay. So he pulls out the hatchet and you
24 say he's just kind of moving it around, but he's
25 not --

Examination of Davonne Zentner

1 A Mm-hmm.

2 Q -- necessarily acting threatening towards
3 you with it?

4 A Right.

5 Q Okay.

6 A Yeah.

7 Q So where does he go after he gets this
8 command and he's holding this hatchet?

9 A Yeah. Then he turns and starts walking to
10 the south --

11 Q Okay.

12 A -- on the sidewalk on 122nd.

13 Q And, at that point, did you have any of
14 your tools that are available to you displayed? Did
15 you pull your firearm? Did you pull your --

16 A I don't remember when I pulled my firearm,
17 but I was -- I did pull it at some point.

18 Q Okay. Do you recall -- what point do you
19 remember having your firearm out?

20 A I feel like there was a point where we
21 followed behind and he turned to face us with the axe
22 and I think that's when I pulled it out.

23 Q Okay. Why was that the moment that you
24 decided to pull out your firearm?

25 A It -- because I felt like we were possibly

Examination of Davonne Zentner

1 going to get charged with the axe and hurt.

2 Q Okay. And did any of your -- did you
3 notice if any of the other officers had any of their
4 less-than-lethal --

5 A Yeah, I think --

6 Q -- tools available?

7 A -- I think Tommy had a less-lethal shotgun
8 out and Santos was on a Taser.

9 Q Okay. And was there any other officers
10 with you at that point?

11 A Not at the initial beginning.

12 Q Okay.

13 A People were coming shortly --

14 Q Sure.

15 A -- thereafter, lots of sirens were coming,
16 lights and sirens.

17 Q And so was the subject at that point after
18 -- after the less than lethal, the Taser and the
19 firearm was displayed --

20 A Mm-hmm.

21 Q -- did the subject continue to walk away
22 from you?

23 A Yes.

24 Q Okay. And did you maintain a distance
25 from him?

Examination of Davonne Zentner

1 A Yeah. We didn't rush up on him, but we
2 wanted to keep a visual on him and we just wanted to
3 make a plan as to how we were going to address him
4 because we know that there was a crime that -- that
5 was committed.

6 I just hadn't heard who the victim was, if
7 we had a victim yet, but we needed to make sure he
8 didn't hurt anybody.

9 Q Okay. Have you also been trained in
10 deescalation tactics?

11 A Yes.

12 Q Okay. Did you employ any of those while
13 engaging with this subject?

14 A Yeah.

15 Q And what kind of deescalation tactics did
16 you utilize?

17 A I tried to just converse with him. I was
18 like, "Hey, dude, what's wrong? What's going on?" I
19 tried to figure out why he was so angry, like, if I
20 could get him to talk, maybe that things can settle
21 down, but --

22 Q Okay.

23 A -- that didn't work.

24 Q That didn't seem to work?

25 A Mm-hmm.

Examination of Davonne Zentner

1 Q Did you see -- you said you were worried
2 that he might engage with other people, did you see
3 the -- him actually attempt to try to engage any
4 other people or act --

5 A The only --

6 Q -- in a threatening --

7 A -- person I --

8 Q -- manner?

9 A -- saw him actively try to engage with was
10 somebody driving a black car that was heading
11 eastbound, I think, on Ash.

12 Q Okay.

13 A And I think he went up to the driver's door
14 of that car.

15 Q And did you see what he tried to do?

16 A No. I just saw that he was trying to
17 converse with the driver.

18 Q Okay. And was he able to do that? Was he
19 able to gain access to the vehicle or what -- what
20 happened?

21 A The vehicle just drove off.

22 Q Okay.

23 A But I was -- at that -- right before that
24 point, I was pretty worried that he was going to hurt
25 somebody, a pedestrian, because we were walking down

Examination of Davonne Zentner

1 the street, the pedestrians were kind of going down
2 the sidewalk where he was. And some of them, he was
3 approaching from behind holding the axe and so I was
4 pretty concerned --

5 Q Okay.

6 A -- that he might hurt somebody that wasn't
7 even involved.

8 Q So why, at that point, did you or not -- or
9 any other officer not deploy any sort of force
10 against him?

11 A Because he wasn't actively trying to hurt
12 anybody at that time, so I didn't feel like it was
13 needed yet.

14 Q Okay.

15 A But we were watching him closely.

16 Q And at what point did other officers sort
17 of join you three or you four?

18 A It was within a few minutes that I called
19 for more cover and actually right after I got there.
20 And people were coming mostly from the south. It
21 seemed like a lot of cars were coming to the south on
22 120 -- from the south on 122nd.

23 Q And did you see if any other officers that
24 had joined you also had less than lethal --

25 A Yes.

Examination of Davonne Zentner

1 Q -- and --

2 A Yeah, more than one.

3 Q You believe there was more than one?

4 A Yeah.

5 Q Okay. And did these other officers -- did
6 you see them engage with the subject?

7 A I didn't see them, but I know that somebody
8 shot a less lethal at him at one point.

9 Q And how do you know that?

10 A 'Cause I heard it.

11 Q You heard it?

12 A Yeah.

13 Q And it's a pretty distinctive sound that
14 you --

15 A Mm-hmm.

16 Q -- recognize?

17 A Yeah.

18 Q Did you see the subject react to the less
19 than lethal being shot?

20 A Yeah.

21 Q And what did he do?

22 A He went down to the ground -- or I don't
23 know if he went all the way to the ground or if he
24 caught himself. I can't remember. But he started to
25 go down.

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1 And I thought, okay, we're going to
2 transition to custody and I'll get my holster and I'm
3 going to be the one to put him in handcuffs. But
4 then he popped back up and ended up taking off again.

5 Q Okay. And where was the hatchet while this
6 was happening?

7 A All right. The hatchet, at one -- when --
8 when he got hit with the less lethal, he did drop the
9 hatchet right then. And so the hatchet was right in
10 front of me. And for a few steps, I feel like I
11 continued with my line of officers down the street.

12 But then I thought, well, there's a lot of
13 people out here. There's still cars coming by, maybe
14 I should stay with the hatchet. So I stayed with the
15 hatchet and then I ended up moving it towards the
16 sidewalk.

17 Q Okay. So I want to talk about that for a
18 second. First of all, where are you on 122nd when
19 you -- when the less than lethal was shot and the
20 hatchet was dropped?

21 A We were right past that gas -- the 76 gas
22 station.

23 Q Okay. So here's --

24 A (Indiscernible.)

25 Q -- our map right here. On the corner of

Examination of Davonne Zentner

1 Burnside and 122nd, is that -- that's where the gas
2 station is that you're referring to?

3 A Yeah.

4 Q Okay. And so were you -- where were you
5 past that where you believe this was dropped?

6 A See that little, blue square?

7 Q This?

8 A Yeah, probably right there --

9 Q Okay.

10 A -- I would guess.

11 Q So not quite to Ankeny Street --

12 A Right.

13 Q -- but, okay.

14 A Yeah.

15 Q And may -- I'll zoom in a little bit, too.

16 Okay. And so still about where that blue
17 square is?

18 A Mm-hmm.

19 Q That's where you believe the -- where you
20 were when the less than lethal was deployed and where
21 the axe was dropped?

22 A Right.

23 Q Okay. And so you said you moved past it,
24 but then you went back to the --

25 A Yeah.

Examination of Davonne Zentner

1 Q -- axe? And where was it when you picked
2 it up?

3 A In the street.

4 Q About how far into the street, do you
5 think?

6 A Oh, I -- I want to say it was in the center
7 of the farthest right lane.

8 Q Okay. So in the lane of travel?

9 A Yeah.

10 Q Okay.

11 A Yeah.

12 Q And you moved it to where?

13 A To the sidewalk.

14 Q Directly to the sidewalk?

15 A To -- to the curb, I guess I should say, to
16 right where the --

17 Q Okay.

18 A -- street and the curb meet.

19 Q Okay. And how did you move it? Did you
20 pick it up with your hand?

21 A Yeah.

22 Q Did you kick it --

23 A I --

24 Q -- over? Did you --

25 A I picked it up.

Examination of Davonne Zentner

1 Q And then you went over and set it down?

2 A Mm-hmm.

3 Q Okay. Did you move it north or south at
4 all or is that directly over from where it was?

5 A I don't remember moving it. I don't -- I
6 know that, initially, I -- I was like, okay. I'm
7 going to carry this and we're going to walk. That
8 was my first thought.

9 And then I was like, well, I don't know
10 where to put it and I need to be able to access all
11 my stuff. So I think I probably did move a little
12 bit south with it.

13 Q Okay.

14 A And then, yeah, and then to the curb.

15 Q And then set it down?

16 A Yeah.

17 Q Okay. And then did you stay with the
18 hatchet?

19 A Yeah.

20 Q And then did you stay with that all the way
21 until the point you were relieved?

22 A Yep.

23 Q Okay. And, again, you said the purpose for
24 moving it was because it was in the lane of travel.

25 Is that what you were --

Examination of Davonne Zentner

1 A Right.

2 Q -- saying?

3 A Yeah.

4 Q Okay.

5 A Yeah. And at first I was going to -- I was
6 going to move it and just leave it. Then I was like,
7 well, I better not just leave it 'cause there's a ton
8 of people around here. Maybe it will disappear and
9 that would be a bad piece of evidence to lose, so I
10 stayed with it after that.

11 Q So after you knew that he had discarded the
12 hatchet at that point, did you have any belief or
13 reason to believe that he still would have a weapon
14 on him at that point?

15 A Well, I do know that there was -- it said
16 there was a -- the initial call was with a knife.
17 And then I want to say that there was another --
18 actually, I don't remember the order. I know there
19 were two different things mentioned by dispatch, a
20 knife and an axe.

21 Q Okay. So even though the axe was gone, did
22 you believe that he still had a knife at that point?

23 A Yeah.

24 Q And that's based on what you heard over
25 the radio?

Examination of Davonne Zentner

1 A Right.

2 Q You already talked about his demeanor a
3 little bit at the -- when you first encountered him
4 at the parking lot. But to the point where less than
5 lethal was deployed on him with the 40 millimeter,
6 what -- did his demeanor change at that point or did
7 it maintain?

8 A No. He was still yelling incoherently and
9 being very angry and wasn't listening to commands,
10 didn't want to engage in conversation with us, just
11 wanted to express how angry he was.

12 Q Could you at any time tell anything in
13 particular about what he was upset about?

14 A No, I couldn't tell.

15 Q Okay. Did he ever gesture or make any
16 motions towards any of the officers that you saw,
17 including yourself, with the hatchet in particular?

18 A He might have made gestures, but he never,
19 like, charged as in running towards somebody. So I
20 felt like we were all pretty -- at a pretty safe
21 distance. We tried to keep that distance just in
22 case he did start running at us, that we'd have a
23 little bit of warning.

24 Q So --

25 A But he -- he did make dangerous gestures,

Examination of Davonne Zentner

1 yes.

2 Q And so at the point that the less than
3 lethal was used, did you believe that that was the
4 appropriate level of force at that point?

5 A Yes.

6 Q Okay. When he walked away after the less
7 than lethal -- or what -- where did he go after the
8 less than lethal was used?

9 A He continued a little bit south, but then
10 he ended up turning west down Ash.

11 Q Okay. And were you behind him when he
12 did that?

13 A No, I stayed with the hatchet.

14 Q You didn't -- you didn't proceed down Ash
15 at all?

16 A No, I didn't.

17 Q Did you hear any gunshots from your
18 location?

19 A I did.

20 Q And do you recall about how many you heard?

21 A I would say, like, eight.

22 Q Okay. About how many times do you think
23 that -- in your presence, that the subject was warned
24 to put down the hatchet --

25 A Oh --

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1 Q -- by you or other officers?

2 A -- I think at least 30.

3 Q And to the best of your recollection, the
4 only time that he dropped it was in response to the
5 use of less than lethal?

6 A Right.

7 Q And just to be clear, you did not ever go
8 up to the location where the shooting itself
9 occurred?

10 A No, I stayed --

11 Q Okay.

12 A -- there.

13 Q And did -- so did that end your involvement
14 in this incident after you're relieved from staying
15 with the hatchet?

16 A Yes.

17 MR. OVERSTREET: Does anybody have any
18 questions?

19 A GRAND JUROR: No.

20 MR. OVERSTREET: Okay. I think that's it.

21 THE WITNESS: Okay.

22 MR. OVERSTREET: Thank you.

23 THE WITNESS: Thank you.

24 MR. OVERSTREET: Okay. I think we can go
25 ahead and go off the record. That'll conclude our

Examination of Sean Hurst

1 witnesses for the lunch hour.

2 * * *

3 (Noon Recess taken at 1:10 p.m.)

4

5 ***AFTERNOON SESSION***

6 (Whereupon, the following proceedings were
7 held in open court before the Grand Jury, 2:21 p.m.)

8 MR. HANNON: We are back on the record on
9 Grand Jury 3 in Case No. 54. Ready to call our next
10 witness, Dr. Hurst.

11 All right. Stand right there. Raise your
12 right hand. They will swear you in.

13 **SEAN HURST**

14 Was thereupon called as a witness; and, having been
15 first duly sworn, was examined and testified as follows:

16 MR. HANNON: Have a seat.

17 **EXAMINATION**

18 BY MR. HANNON:

19 Q And can you start by please stating and
20 spelling your name, please.

21 A My name is Sean Hurst. That's S-e-a-n,
22 H-u-r-s-t.

23 Q Thank you. And, Dr. Hurst, how are you
24 currently employed?

25 A I am the acting chief medical examiner of

Examination of Sean Hurst

1 the Oregon State Medical Examiner's Office.

2 Q And can you briefly summarize for the grand
3 jury, your educational background coming into
4 becoming acting chief medical examiner.

5 A Yes. So I went to Seton Hall University,
6 where I graduated with a major in biology and a minor
7 in chemistry and Japanese. I then attended
8 St. George's University medical school, obtaining
9 an MD.

10 After that, I completed a combined anatomic
11 and clinical pathology residency in St. Barnabas
12 Medical Center, New Jersey. After that, I became a
13 special -- certified in both of those specialties.
14 And then finally, I completed a one-year forensic
15 pathology training fellowship in Miami-Dade County,
16 Florida.

17 Q And discuss for us, what is being in a
18 one-year forensic fellowship in Miami-Dade Florida,
19 what did that entail?

20 A So that entails learning how to participate
21 in death investigations for the overall purpose of
22 determining cause and manner of death. So things
23 that we do in fellowship are learning how to do
24 forensic autopsies, learning how to interpret various
25 pieces of evidence and how to use them to inform our

Examination of Sean Hurst

1 conclusions, learning how to interpret toxicology,
2 learning how to review various documents such as
3 medical records, police records, things like that.

4 Q And just by way of an estimate prior to
5 coming over here -- and was that all your experience
6 before coming here to Oregon?

7 A I also worked in southwest Florida for
8 about three years before coming here.

9 Q And what was your role in southwest
10 Florida?

11 A As an associate medical examiner.

12 Q So in -- in -- as an associate medical
13 examiner, is that kind of the tasks and examinations
14 you performed down there in southwest Florida?

15 A Yes.

16 Q And just by an estimate, prior to coming to
17 Oregon, how many autopsies or postmortem examinations
18 would you say you conducted in your experience prior
19 to coming to Oregon?

20 A Probably about 800.

21 Q And can you just briefly outline for the
22 ladies and gentlemen of the jury, what is a
23 postmortem examination or autopsy?

24 A So a postmortem examination is the
25 examination of the external and internal parts of the

Examination of Sean Hurst

1 body for the purposes of documenting any injuries or
2 existing diseases a person may have had prior to
3 death. And then we utilize that information, again,
4 to determine how the person died.

5 Q And in conducting those examinations,
6 again, I presume your biology, chemistry and medical
7 background informs you based on the whatever signs or
8 symptoms or injuries you're seeing inside a body
9 postmortem?

10 A Yes.

11 Q And in trying to understand or characterize
12 the injuries or markings or injuries or trauma that
13 you see on the body postmortem, is there any other
14 information that you collect, either from
15 investigators, medical records or anything alike that
16 helps inform you, better understand the body as
17 you're examining it?

18 A Yes. So we do review and receive
19 investigative reports from investigators that go to
20 crime scenes and take photos and things like that.
21 We generally do get a chance to review a person's
22 medical history, which usually includes medical
23 records prior to performing the examination.

24 And then during the examination, we do
25 things such as procure evidence, collect specimens

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1 for toxicology testing as well as any other specimens
2 we need for any ancillary testing as the individual
3 cases demand.

4 Q And when did you then start as a medical
5 examiner working in Oregon?

6 A September 5th of last year.

7 Q And -- and in that time since September of
8 last year, how many postmortem examinations have you
9 done in Oregon?

10 A Probably about 220, 230.

11 Q And turning your attention to a person by
12 the name of Lane Christopher Martin. Were you asked
13 earlier this year, in July 2019, to perform a
14 postmortem examination on Mr. Martin?

15 A Yes.

16 Q And could you explain for the grand jury
17 just briefly kind of what the process was in
18 conducting that postmortem examination on Mr. Martin?

19 A So we generally start with an examination
20 of the external parts of the body, so that includes
21 documentation and subsequent removal of the clothing.
22 From there, we will examine the skin surfaces and
23 document any external manifestations of injuries as
24 well as any identifying markings that a person has.

25 During this process, we are also taking

Examination of Sean Hurst

1 photos of everything that we are documenting. Also
2 as part of the external examination, we would collect
3 any evidence that is necessary to be collected,
4 usually by the request of the investigating law
5 enforcement agency.

6 And then we will proceed to the internal
7 examination. And the internal examination involves
8 the removal and examination of each organ in the
9 body, again with the idea that we can document any
10 abnormalities in them.

11 Q So -- and is it fair to say that when you
12 do the internal examination, it is more intrusive,
13 obviously, as you look into each organ as you
14 examine it?

15 A Yes.

16 Q And when you're dealing with shootings,
17 stabblings or any sort of investigation where the
18 body's undergone trauma, is -- is it the review of
19 the internal body where you're able to see what
20 impact, if any, some of those traumas may have had
21 and what that would -- may have led to the cause of
22 death?

23 A Yes. That's part of the internal
24 examination will be documenting any injuries that a
25 person may have incurred.

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1 Q And did you do that in this case with, the
2 steps you just outlined and -- and the procedures,
3 did you do that with Mr. Martin in this case?

4 A Yes.

5 Q And could you summarize for the ladies and
6 gentlemen of the grand jury kind of what your
7 observations and documentations as it relates to the
8 trauma and injuries that Mr. Martin sustained.

9 A So we identified multiple gunshot wounds in
10 this individual, two of which injured major organs of
11 the body and would have resulted in death.

12 Q And the other -- were there other gunshot
13 wounds that were either more superficial or cause
14 injury, but would not have caused death?

15 A Yes.

16 Q And just briefly, if you recall, do you
17 recall if there was any clothing or anything that
18 Mr. Martin may have been wearing that may have
19 blunted or stunted some of the impacts of some of the
20 bullets that he sustained?

21 A Yes. He was wearing multiple layers of
22 clothing and in particular, he was wearing an
23 undershirt that had some padding in the chest and in
24 the low back region.

25 Q And so despite wearing that padding, was

Examination of Sean Hurst

1 there still injury from bullet strikes despite that
2 padding?

3 A Yes.

4 Q So were the injuries as a result of that
5 padding more superficial than the two that you
6 described as being fatal?

7 A Yes.

8 Q Now, in addition to the multiple gunshot
9 wounds, both superficial and fatal, at some point,
10 did you also take a toxicology sample or blood sample
11 from Mr. Martin as part of your examination?

12 A Yes, we did.

13 Q And did you forward that blood sample on to
14 the Oregon State Police Crime Lab toxicology
15 department for an analysis to see what, if any,
16 intoxicants were in the blood at the time of the
17 examination?

18 A Yes.

19 Q And first, going back to your observations,
20 did you document all of your observations and
21 examination on a report that you have supplied
22 through the Medical Examiner's Office?

23 A Yes.

24 Q Okay. And then further, that toxicology
25 examination, were the findings by the Oregon State

Examination of Sean Hurst

1 Police Crime Lab outlined and documented in a report
2 dated August 14th, 2019 by Emily Lawler, forensic
3 scientist?

4 A Yes.

5 Q Now, in referring to that report -- and do
6 you have a copy in front of you?

7 A I do.

8 Q Great. It appears under Exhibit 1, a gray
9 stoppered cavity blood specimen which is labeled
10 Martin, Lane Christopher, toxicology examination,
11 confirms the presence of methamphetamine and it lists
12 an amount. Could you describe for the jury what that
13 amount was?

14 A The amount is 1.2 milligrams per liter for
15 methamphetamine and 0.12 milligrams per liter for
16 amphetamine.

17 Q Now, with your medical experience as well
18 as your experience in pathology and postmortem
19 examinations, do you have any training and experience
20 to be able to articulate what, if any, impact that
21 quantity of methamphetamine found in the blood could
22 have on a person?

23 A Yes.

24 Q And what would that be?

25 A So at this level, methamphetamine would be

Examination of Sean Hurst

1 having a physiologic effect on an individual. The
2 physiologic side, that usually manifests itself as a
3 highly increased blood pressure, highly increased
4 heart rate. It causes the heart to pump a lot more
5 powerfully than it would normally.

6 On the subjective side of things, it may
7 cause a person to have a experience of euphoria and
8 at higher concentrations, can cause a person to
9 behave very erratically.

10 Q And have you ever heard of the term
11 meth-induced psychosis?

12 A Yes.

13 Q And is -- well, what is meth-induced
14 psychosis from your understanding based on your
15 training and experience?

16 A Basically, again, a psychotic disorder
17 related to exposure to methamphetamine. Psychotic
18 disorder being something that would cause, again, a
19 person to exhibit erratic behavior and draw
20 conclusions about things that a normal person
21 normally would not.

22 Q And from your experience given the quantity
23 that you described and was documented in the report
24 dated August 14th, 2019, have you ever seen, in your
25 training and experience, an amount that in that

Examination of Sean Hurst

1 amount that would be potentially lethal to a person?

2 A I have, yes.

3 MR. HANNON: Do the grand jurors have any
4 other questions for Dr. Hurst?

5 A GRAND JUROR: Can you tell us what organs
6 were struck, the two that you said could possibly
7 have been fatal.

8 THE WITNESS: Sure. I can basically trace
9 the trajectory of those two wounds if that would be
10 helpful. So one of the them entered on the right
11 side of the chest kind of in the vicinity of the
12 lower ribs.

13 And then it continued along an inferiorly
14 oriented course, meaning towards the person's feet.
15 And as a part of that course, it passed through the
16 liver, the stomach and the spleen, in which there was
17 a bullet in the upper part of the abdomen.

18 The second one entered on the part of
19 the -- sorry, right shoulder, right like here.
20 Passed through the head of the main bone of the arm,
21 which is the humerus, then continued along an also
22 inferiorly oriented course, passing through the right
23 ribs, the right lung, grazed the heart, the left
24 lung, went through the posterior part of some ribs
25 and lodged in the left side of the back.

Examination of Sean Hurst

1 BY MR. HANNON:

2 Q And, again, as you outlined, there were
3 some other, what appears to be injuries related to
4 bullet strikes that were either superficial or
5 causing injury, but not, as you described these two,
6 fatal?

7 A Yes.

8 MR. HANNON: Yes.

9 A GRAND JUROR: Do you image a person
10 before you do your examination?

11 THE WITNESS: Yes, we do perform X-rays.

12 MR. HANNON: And that was a great question.
13 And thank you for yours as well.

14 BY MR. HANNON:

15 Q When you mentioned that you -- that you
16 were able to map the trajectory, did you extract and
17 recover the bullets from the interior of Mr. Martin?

18 A Yes. Four bullets were identified on X-ray
19 and four bullets were recovered.

20 Q And of the -- of the four, two again
21 were -- caused the fatal wounds and then two were the
22 more superficial ones?

23 A Yes.

24 MR. HANNON: Yes.

25 A GRAND JUROR: Were -- could you tell

Examination of Sean Hurst

1 which was the entry and exit wound on all of these --

2 THE WITNESS: Yes.

3 A GRAND JUROR: -- wounds? Were they all
4 (indiscernible) were the entry wounds -- on what part
5 of the body were most of the entry wounds?

6 THE WITNESS: So one entry wound was on the
7 right shoulder. One entry wound was on the right
8 side of the chest here. One entry wound was on the
9 right side of the chest here, more in the front. One
10 was in the low back. And then there were some wounds
11 on the left arm that were a little bit more difficult
12 to classify.

13 MR. HANNON: Yes.

14 A GRAND JUROR: How many -- how many total
15 bullet strikes do you think hit the suspect?

16 THE WITNESS: So I documented in my report,
17 nine gunshot wounds.

18 BY MR. HANNON:

19 Q And of those gunshot wounds, can you say
20 that they're all individual bullets or are there some
21 that are injuries that could have been caused by one
22 bullet traversing, hitting different parts of the
23 body, causing injury or trauma?

24 A Yes. The ones on the left arm, again, were
25 a little bit more difficult to classify. So it's a

Examination of Sean Hurst

1 little bit harder to tell whether that's due to one
2 injury or more than one. So I generally classify
3 those separately.

4 Q And going back to one of the other grand
5 juror's questions as to the entry wounds. Given that
6 you're able to match where the wounds were entered,
7 does that at least give you, geographically, an idea
8 as to whether or not the person when they were shot
9 or injured was facing or at the side or in the back
10 when they were -- when the shots were -- ultimately
11 came in contact with Mr. Martin?

12 A In this case, it was a little bit difficult
13 to tell, just because wounds were on varied body
14 surfaces.

15 Q But if I heard correctly, two were in the
16 front and one in the side?

17 A Yep.

18 Q And -- sorry, one last question.

19 A Sure.

20 Q You can't say, because you weren't at the
21 scene, as to the sequential order of which bullets
22 hit and when, striking Mr. Martin? In other words,
23 you couldn't say this one hit first, this one hit
24 second, this one hit third?

25 A No, I wouldn't be able to determine that.

Examination of Sean Hurst

1 BY MR. OVERSTREET:

2 Q Doctor, from the lab report, you identified
3 methamphetamine and amphetamine? Was there anything
4 else present as well?

5 A There were cannabinoids as well.

6 A GRAND JUROR: There were what?

7 THE WITNESS: Cannabinoids.

8 BY MR. HANNON:

9 Q What's cannabinoids?

10 A Those are metabolites of marijuana.

11 MR. HANNON: And just for the record, the
12 question (indiscernible) others, items found in the
13 blood was Mr. Overstreet -- the transcriptionist.

14 Yes, sir.

15 A GRAND JUROR: The wounds on the -- or the
16 strikes on the left arm, could you tell if they --
17 which direction they came from?

18 THE WITNESS: Not based on the appearance
19 of the wounds.

20 A GRAND JUROR: Can you repeat again the
21 second fatal shot that you recorded?

22 THE WITNESS: Yes. So that had its
23 entrance on the right shoulder. It then passed
24 through the bone of the right arm, then through the
25 right upper ribs, then the right lung, grazed the

Examination of Sean Hurst

1 heart and passed through the left lung and then
2 passed through the posterior part of the ribs on the
3 left side and lodged in the left low back.

4 A GRAND JUROR: I noticed you said that the
5 concoction that he had in his blood system
6 potentially could have caused death. If -- would he
7 have passed away from the concoction anyways if he
8 did not receive medical care or, in your opinion,
9 would that have guaranteed his death or not?

10 THE WITNESS: So it's a little bit more of
11 a difficult question to answer, but in this
12 particular case, I don't believe that this would have
13 been sufficient to cause death in this particular
14 individual.

15 Generally speaking, methamphetamine causes
16 death by interacting adversely with existing heart
17 disease that people have. This person was young and
18 did not have any heart disease that I saw on my
19 examination.

20 BY MR. HANNON:

21 Q So in that answer then, my understanding
22 is, due to the quantity, from your training and
23 experience, that is a high quantity of
24 methamphetamine found within the blood system?

25 A Yes.

Examination of Travis Gover

1 MR. HANNON: Any other questions for
2 Dr. Hurst?

3 May this witness be excused?

4 Okay. Thank you, Doctor.

5 THE WITNESS: Thank you very much.

6 MR. HANNON: Thank you, sir.

7 THE WITNESS: Thanks a lot.

8 MR. HANNON: Have a good day.

9 Stand right there. Raise your right hand.
10 They'll swear you in.

11 **TRAVIS GOVER**

12 Was thereupon called as a witness; and, having been
13 first duly sworn, was examined and testified as follows:

14 MR. HANNON: And could you please state --
15 go ahead and have a seat.

16 **EXAMINATION**

17 BY MR. HANNON:

18 Q Could you please state and spell your name
19 for the record.

20 A My name is Travis Gover. Last name is
21 spelled G-o-v-e-r.

22 Q And how are you currently employed?

23 A I'm employed with the Oregon State Police
24 Forensic Services Division. It's the Portland lab,
25 which is located in Clackamas. And I'm basically

Examination of Travis Gover

1 employed as a forensic firearm and toolmark examiner.

2 Q And just briefly, can you outline for the
3 ladies and gentlemen of the grand jury, your training
4 and experience that goes into your position with the
5 Oregon State Police Crime Lab.

6 A So my training was I attended a program
7 that was referred to the National Firearm Examiners
8 Academy. It's put on by the Bureau of Alcohol,
9 Tobacco and Firearms.

10 It's a year-long intensive training course.
11 It involves basically learning the microscopy and the
12 science, you know, the ins and outs of firearms, the
13 manufacturing and how the firearms function.

14 I had the opportunity to actually visit
15 probably 15 different manufacturers back east, seen
16 how firearms are actually manufactured and see the
17 machining processes, other aspects of firearms
18 examination, so the microscopy, examining the
19 cartridge cases from the scenes, examining fired
20 bullets and understanding, you know, what creates the
21 marks that are found on fired bullets and fired
22 cartridge cases, you know, how to relate those back
23 to a particular firearm.

24 We also do other examination referred to as
25 proximity testing. Involves gunshot residue. We

Examination of Travis Gover

1 also restore serial numbers that have been
2 obliterated. I've been doing with OSP for almost
3 20 years now.

4 Q Now, just to break this down a little bit
5 for the grand jurors, when you've discussed you
6 looked at the -- and trained with the ATF on the --
7 the microscopy, excuse me. What do you mean by that?
8 What is it about cartridge casings or discharged
9 casings and how you're able to examine them?

10 A So within the firearm, when the firearm is
11 fired, basically, before that process even starts,
12 most people refer to the unfired component as a
13 bullet. The unfired component that is the ammunition
14 is actually referred to as a cartridge.

15 It's made up of four different aspects.
16 One is the bullet, which is the actual projectile
17 that goes down the barrel and goes down range.
18 Second is the cartridge case, which is the metallic
19 casing that holds the powder, which is the third
20 component.

21 And the fourth component is what we refer
22 to as a primer, which is in the base of a cartridge
23 case; holds a small, basically explosive compound.
24 When a firing pin from the firearm hits it hard
25 enough, that small explosion actually ignites the

Examination of Travis Gover

1 powder and creates pressure, starting the whole
2 process of firing.

3 So during that firing process in the
4 firearm, when that powder's burning in the cartridge
5 case, it's generating pressure. That pressure's
6 pushing the bullet down the barrel, but at the same
7 time, it's pushing the cartridge case back into the
8 firearm in an area that we refer to as a breechface.

9 It's a machined area within a firearm that
10 basically, where the firing pin comes through to make
11 contact, so it's basically supporting the bottom of
12 that cartridge case.

13 During the manufacturing process of the
14 firearm, there's machining aspects that go into
15 creating these particular areas. You have a metal
16 cutter that's cutting, basically, another piece of
17 metal. So as that metal cutter is cutting, at a
18 microscopic level, the cutting edge is -- is changing
19 and it's actually leaving marks on the firearm.

20 And while it's leaving those marks, it's
21 actually changing the cutting blade at the same time.
22 So whenever it moves on to the next firearm to start
23 its cut, the cutting -- the cutting blade is actually
24 changed from the previous firearm.

25 And by those microscopic marks that are

Examination of Travis Gover

1 being imparted from the cutter to the firearm, that's
2 rendering those marks unique to that particular
3 firearm. So during the firing process, that pressure
4 for the cartridge case is pushing the cartridge case
5 back into that machined area.

6 It's impressing some of those marks into
7 the cartridge case from the firearm. And at the same
8 time, that firing pin that's initiating that contact
9 with the primer, sometimes those can have unique
10 machining marks on them as well.

11 So those are the type of marks that are
12 best used by firearms examiners to identify a
13 particular cartridge case as being fired in a firearm
14 in question. So --

15 Q And when you do that, do you take a test
16 fire from a particular firearm to get an impression
17 as to what that firearm would do on its own casing to
18 be able to compare it to other casings
19 microscopically to see if it was fired from the same
20 firearm?

21 A Yes. So what is that basically asking is
22 when I have a firearm in the lab that I'm testing, we
23 have a water tank that we go out and we fire into.
24 So we can gain, you know, obtain known samples from
25 the firearm. So the fired cartridge cases, we'll

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1 take back into our lab, look at them under the
2 microscope.

3 So we can see which of those microscopic
4 marks are basically being reproduced from shot to
5 shot. So when we go to look at our unknown cartridge
6 cases, our evidence cartridge cases, we have an idea
7 of what it is that we're looking for on the unknowns,
8 because we've seen what's reproduced from the
9 firearm. So --

10 Q And so from your training and experience in
11 having done this for 20 years, is it your opinion
12 that then each firearm has or discharges in some --
13 well, let's break it down even further.

14 When you get casings, what kind of firearms
15 are we discussing that discharges a casing left on
16 the scene of a crime or investigation?

17 A So the type of firearm that would basically
18 leave fired evidence in the form of a cartridge case,
19 what we'll refer to as a semiautomatic -- either
20 semiautomatic or full automatic, the most common
21 being semi-automatic firearms.

22 So with these particular firearms, there's
23 an ammunition source which is referred to as a
24 magazine, which is typically loaded into, like, the
25 grip of the firearm.

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1 So this is where, you know, the next shot
2 is coming from. On the top of the firearm is what we
3 refer to as a slide. So it actually moves back and
4 forth in a horizontal plane.

5 So when the shot's fired, first shot's
6 fired, we have that pressure buildup, so the bullet
7 going down range, the pressure of the cartridge case
8 is pushing to the back of the breechface area, which
9 is a part of that slide.

10 So that whole slide then starts to move on
11 top of what we basically call frame rails, so on top
12 of the frame. There's another part inside that slide
13 referred to as an extractor.

14 It's just a little claw that basically
15 grabs onto the cartridge case. And as that slide's
16 moving backwards, it's pulling that cartridge case
17 out of basically the chamber area of the barrel until
18 it hits another piece called an ejector.

19 And once it does that, it basically causes
20 the fired cartridge case to eject from the firearm.
21 Now that that slide's fully to the rear position and
22 it's basically open, as the slide comes back forward
23 under spring tension, it picks up the next cartridge
24 off the top of the magazine and loads it up into the
25 chamber, ready to be fired again.

Examination of Travis Gover

1 And, at that point, you pull the trigger
2 again, it starts the whole process over again, which
3 is the semi-automatic portion. So with each pull of
4 the trigger, one shot is fired. And that process
5 repeats until either you stop pulling the trigger or
6 the magazine runs out of ammunition. So --

7 Q And so based on your 20 years of
8 experience, is it your opinion then that when you
9 have a semi-automatic firearm ejecting these casings,
10 that each individual firearm, even if it's the same
11 make or manufacturer, has its own individual
12 characteristics that will show up on a casing to
13 identify which individual firearm fires that
14 individual casing?

15 A That's correct. There's actually been
16 studies of consecutively manufactured firearms to
17 show that Firearm 1 that was manufactured and then
18 the one that was manufactured right after it have
19 been basically compared.

20 You know, the cartridge cases from each
21 have been compared to each other and show that
22 they're -- that they are different.

23 Q And you talked earlier when we first
24 started this conversation that it's microscopic, so
25 it's not necessary to the naked eye, but it's under a

Examination of Travis Gover

1 microscope where you're comparing these things?

2 A Yes. The level of detail that we look at
3 is typically between 30 and maybe 70 times
4 magnification.

5 Q So turning your attention to this
6 particular investigation, Agency Case No. 19-258996,
7 was there some evidence submitted to you in the form
8 of a 9 millimeter Glock Model 17 semi-automatic
9 pistol along with some casings under a receipt number
10 and item number?

11 A Yes.

12 Q And was -- and now to -- when you're asked
13 to examine these things, are you a part of the
14 investigation knowing how all these pieces fit or are
15 you detached from the investigation and simply
16 conducting an analysis of the items that are
17 submitted to you?

18 A We are -- we're basically detached. We
19 don't have any information as to what -- what
20 happened at the scene or any of the events.

21 Q So was there -- so was there a firearm
22 submitted to you for analysis?

23 A Yes.

24 Q And how many casings were submitted to you
25 for analysis as well?

Examination of Travis Gover

1 A There was 11.

2 Q And were you able to examine those 11
3 casings and compare it to the firearm that were both
4 submitted to you under this investigation case
5 number?

6 A Yes.

7 Q And what, if anything, were you able to
8 determine in your analysis related to the casings
9 that were submitted along with the firearm that was
10 submitted to you?

11 A Through the microscopic comparison process,
12 I identified the 11 9-millimeter Luger caliber fired
13 cartridge cases as being fired in the Glock Model 17
14 pistol that was submitted to me.

15 Q So that one firearm -- in layman's terms,
16 that one firearm fired all of those casings that were
17 submitted to you?

18 A That's correct.

19 MR. HANNON: Ladies and gentlemen of the
20 grand jury, have any questions for Mr. Gover?

21 A GRAND JUROR: How many test casings do
22 you produce at the water tank?

23 THE WITNESS: To start off with, do three.
24 Two to three. So I try to do about three, so --

25 A GRAND JUROR: How many did you do this

Examination of Travis Gover

1 time then?

2 THE WITNESS: I can check. And for these
3 type of cases, I usually use the evidence ammunition
4 and I produced four this time.

5 A GRAND JUROR: Four. Thanks.

6 MR. HANNON: Anybody else then?

7 A GRAND JUROR: Yes.

8 BY MR. OVERSTREET:

9 Q You said evidence ammunition. So did --
10 did you also receive the other nonfired bullets that
11 were with the gun?

12 A Yes. So when I say evidence ammunition, we
13 have -- within our laboratory, we have our own
14 ammunition supply. For these types of cases, we may
15 or may not have the same type of ammunition, so for
16 these type of cases, we ask for the agency to submit
17 the ammunition that was with the gun and then we test
18 fire that for our comparisons.

19 BY MR. HANNON:

20 Q So, in other words, if they -- are you
21 familiar with the term a round count or seizing the
22 unspent -- unspent cartridges from the magazines?

23 A I know everything is collected. I'm never
24 heard that term.

25 Q So what you're saying, if I understood

Examination of David Kemple

1 correctly, is that you took the live round ammunition
2 that was seized in this investigation as your test
3 casing, the test casings that you fired at your lab?

4 A Yes.

5 MR. HANNON: Any other questions? May this
6 witness be excused?

7 Okay. I'll turn it over to Mr. Overstreet
8 for the next witness.

9 DAVID KEMPLE

10 Was thereupon called as a witness; and, having been
11 first duly sworn, was examined and testified as follows:

12 MR. OVERSTREET: Be seated.

13 EXAMINATION

14 BY MR. OVERSTREET:

15 Q Go ahead and state and spell your full
16 name, please.

17 A David Kemple. That's K-e-m-p-l-e.

18 Q Officer Kemple, where are you employed?

19 A City of Portland as a police officer.

20 Q What is your current position at the City
21 of Portland?

22 A I'm East Precinct and will be B shift here
23 shortly.

24 Q Okay. And were you working as a police
25 officer on July 30th of this year?

Examination of David Kemple

1 A Yes, I was.

2 Q And did you respond to this disturbance out
3 on 122nd near Burnside?

4 A Yes.

5 Q And in what capacity did you respond?

6 A When they were calling for Code 3 cover, I
7 started heading that way just to basically fill any
8 role that needed to be filled.

9 Q And were you riding in a patrol car by
10 yourself or did you have a partner with you?

11 A By myself.

12 Q And to the best of your recollection, what
13 was the nature of the call that you thought you were
14 responding to?

15 A It was a disturbance where an individual
16 had -- it was a machete and this person was
17 threatening with the machete and yelling and
18 screaming with a machete.

19 Q So -- and that's information that you
20 learned over the radio?

21 A Yes.

22 Q Either dispatched or through other officers
23 giving updates?

24 A Yes. Correct.

25 Q Okay. And you were not the first person on

Examination of David Kemple

1 scene?

2 A No.

3 Q Okay. What area did you specifically
4 respond to?

5 A I responded to 122nd and Burnside. Where I
6 ended up parking my car was right in the middle of
7 122nd and Burnside on top of the westbound Max
8 tracks.

9 Q And did you exit your vehicle at that
10 point?

11 A Yes, I did.

12 Q And what -- at that point, you said you
13 were going to sort of fill any role that you were
14 needed for?

15 A Yes.

16 Q At that point, what did you believe your
17 role was?

18 A At first, at that time, I was in the
19 position of an acting sergeant, so I was responding
20 partially as an acting sergeant. They had also
21 called for less lethal operators, which I also have a
22 less lethal. So, basically, I was just going to do
23 whatever needed to be done, whether that be less
24 lethal or acting sergeant (indiscernible).

25 Q And as an acting sergeant, what would your

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1 role have been? We'll get to the less lethal part
2 here in a minute, but what would your role have been
3 on scene as an acting sergeant?

4 A Depending on the situation, if you get
5 there, you kind of take control of the call and start
6 making a plan, if possible.

7 Q Okay. So you would coordinate with the
8 officers on the scene to develop a plan?

9 A Yes.

10 Q Okay. And presumably, other officers are
11 trained that when an acting sergeant arrives on
12 scene, that they would sort of come to you or defer
13 to you as to how to proceed?

14 A Yes.

15 Q Okay. Now, before we get into the less
16 than lethal stuff, are you also trained as a CIT?

17 A ECIT, yes.

18 Q ECIT.

19 A Yes.

20 Q Could you explain what an ECIT is?

21 A It's the Enhanced Crisis Intervention Team.
22 And the function is to go to calls and deal with
23 people that are in mental crisis.

24 Q And the enhanced portion meaning you've
25 received more training?

Examination of David Kemple

1 A Yes.

2 Q Now, you already explained that you had
3 responded to this call, Code 3, lights and sirens?

4 A Yes.

5 Q And that you were there to fill any role
6 necessary?

7 A Correct.

8 Q You did not say that you were there as an
9 ECIT. Is that because you were not called out to the
10 scene as an ECIT for those services?

11 A Yes. And with ECIT, if I get there and
12 there's no other ECIT officer there and the situation
13 is such that I would be able to fill an ECIT role, I
14 would have filled that ECIT role.

15 With this situation, it was rapidly
16 unfolding and it was moving very fast and there was
17 really no time to actually do anything, I guess,
18 ECIT-related.

19 Q Could you give us an example of maybe a
20 different type of call where that would occur, where
21 you would utilize your ECIT training?

22 A Yes. So we get calls -- any time there's a
23 jumper on a bridge, somebody that wants to commit
24 suicide on a bridge, we get calls to that. Any time
25 there's a suicidal person, we respond to those calls.

Examination of David Kemple

1 Mental health facilities, if there's somebody in the
2 facility that is having problems, the facility will
3 call and we will respond to those.

4 And any time an officer requests an ECIT
5 officer to come out and talk to them, we'll go out --
6 or to go out and talk to somebody they're talking
7 with, we'll go.

8 So a lot of times, somebody will be
9 talking, contacting a member of the community that
10 may not necessarily be in a mental health crisis, but
11 they might be having some sort of mental
12 health-related issue.

13 And so we can go out, talk to the person.
14 Sometimes it's just as simple as have a conversation
15 with them, figure out what's going on, that will calm
16 them down. To sometimes, you know, you're on a
17 bridge with somebody for a couple hours trying to
18 talk them down, get them resources and deescalate the
19 situation, get them the help they need.

20 Q The examples you've given us are maybe
21 different than the type of situation you were
22 handling on this particular day?

23 A Yes.

24 Q You already stated that you did not respond
25 as the ECIT and you also didn't utilize necessarily,

Examination of David Kemple

1 your position as an ECIT. Why is that? Why did you
2 not do that in this particular case?

3 A In this particular situation, the person
4 that we went to deal with was actively aggressive.
5 He was already in a state of high agitation. He was
6 yelling, screaming.

7 And, generally, when I'm going to a call in
8 a ECIT capacity, I like to have a conversation with
9 somebody where I can talk to somebody who maybe not
10 necessarily is calm, but a little more safe than this
11 situation was. And this situation, there was just no
12 time to actually engage the person with a
13 conversation.

14 Q Okay. Given that there was no time to do
15 that, what was your, I guess, what did you determine
16 your role should be at that point, given the
17 heightened agitation?

18 A So when I arrived, I saw another officer
19 with their less lethal launcher. What it is, it's a
20 40 millimeter -- have they been --

21 Q They've already talked about that a little
22 bit, so --

23 A Okay. So there was one other officer that
24 had his 40-millimeter less lethal launcher out. And
25 we usually like to deploy those in pairs. And the

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1 reason is is if one person ends up deploying or
2 firing their less lethal, it takes a few seconds to
3 reload.

4 So after one person shoots a less lethal,
5 we have another officer there with their less lethal,
6 so if another deployment needs to happen immediately,
7 it can happen while the other person reloads.

8 Q And you said there was another person there
9 that had their less than lethal already deployed?

10 A Yes. Officer Bianchini had his out, yeah.

11 Q And he was there first and had that out?

12 A Yes. Yeah. He arrived just before I did.

13 Q And so you then accessed your
14 40-millimeter --

15 A Yes.

16 Q -- launcher?

17 Okay. And then once you got yours, where
18 did you go?

19 A So I went right up next to Officer
20 Bianchini. And at this time, the individual, when I
21 arrived, was at the northwest corner of Burnside and
22 122nd, which is right -- there's -- the Max
23 platform's in the middle there of Burnside. Do you
24 want me to go up there and point to it or --

25 Q Yeah.

Examination of David Kemple

1 A Okay. Yeah. So when I arrived, I parked
2 about right here. Individual's about right here.
3 And at that time, I can immediately see that he's
4 very agitated. He's yelling and he's got the machete
5 and he's swinging it around.

6 And so I get my less lethal out. Officer
7 Bianchini's already giving commands for him to drop
8 the machete. And about that time, he starts walking
9 southbound on the west side of 122nd. He's walking
10 southbound towards the Max Mart & Deli.

11 And so when he starts walking southbound, I
12 also start giving commands to drop the machete or --
13 and I don't -- I don't remember if I said machete or
14 ax, 'cause it's kind of a combo, whatever he had.

15 But I was yelling at him to drop the
16 machete or you will be shot. And what we say is --
17 we just say you will be shot. We don't say what
18 you're going to be shot with. We just say you will
19 be shot and it's just a blanket warning statement.

20 And that's for whether it be lethal or less
21 lethal. It's just a blanket warning. And so we
22 started giving him -- I started giving him commands
23 as soon as I exited my vehicle and he was walking
24 southbound.

25 MR. OVERSTREET: Okay.

Examination of David Kemple

1 MR. HANNON: And I'm sorry just to
2 interrupt. Dave Hannon --

3 THE WITNESS: Yes.

4 MR. HANNON: -- asking a follow-up question
5 to that.

6 BY MR. HANNON:

7 Q So when you're pointing at the screen in
8 the picture, it appears you're pointing at the
9 intersection of 122nd and Burnside?

10 A Yes. Correct.

11 Q Great. I just want to make sure we get the
12 geography.

13 A Yes, yeah. So we're the north -- when I
14 arrived, he's like right at the northwest corner,
15 right about there on the sidewalk.

16 MR. HANNON: Great.

17 BY MR. OVERSTREET:

18 Q And you said he then crossed Burnside?

19 A So he starts walking southbound towards the
20 Max and mini mart. And to kind of go back, when I
21 arrive, there are people on that corner. I don't
22 remember how many people, but there are people there.
23 There's people at the Max platform.

24 Being that it's 4:30, this is a major --
25 it's a park and ride right here, so a lot of people

Examination of David Kemple

1 are coming and going from work and then there's also
2 a lot of residential around there. So there's a lot
3 of people in the area.

4 Q And why did you take note of that in
5 particular?

6 A My concern was this person -- I guess a lot
7 of access to possible victims. And had he hit
8 somebody with that thing, it could kill somebody or
9 seriously injure them.

10 Q And what about your own actions, being, you
11 know, using tools, other weapons or other tools that
12 you have available to you, do you have concern with
13 other people being around?

14 A Yes. So backdrop of where we're going to
15 be shooting if we have to shoot. You don't want to
16 have people behind you. You want to have a good,
17 solid back stop to stop whatever round you end up
18 shooting.

19 Q So at this point, you're -- and the suspect
20 is walking southbound on 122nd on the west side?

21 A Yes.

22 Q Okay. And where are you and where's
23 Officer Bianchini?

24 A So we're engaging him. We're in kind of
25 the middle of the street. I'm guessing 20, 25 feet

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1 behind him, giving him commands.

2 So we kind of have -- we're about probably
3 right here, just kind of tailing him. So we're -- I
4 guess when we're looking at him, we're looking kind
5 of mostly south, but a slight west as well, if that
6 makes sense.

7 Q And did you maintain your distance?

8 A Yes.

9 Q Was there any officers between yourself and
10 the suspect?

11 A No.

12 Q So is it fair to say you and Officer
13 Bianchini were sort of the lead in the group
14 attempting to engage with the suspect?

15 A Yes.

16 Q So what -- where did you go after that?

17 A We continued to give him commands. As he's
18 approaching the mini mart, I look over to
19 Officer Bianchini and I said, we're not letting him
20 go into the mini mart. And my concern is -- is his
21 high state of agitation.

22 I am concerned that if he goes into the
23 mini mart, we won't be able to see him. There's
24 access to more people in there. It's a confined
25 space. So it would greatly hamper how we're able to

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1 engage with him.

2 And then that was just a lot of -- there
3 could be more people. We couldn't see how many
4 people are in there, but just more access to victims
5 and a worse tactical situation for us.

6 Q And so how did you prevent him from
7 entering the store?

8 A We kept giving him commands. He walked
9 southbound and then right on the corner, so it would
10 be right on the southwest corner, there's like a
11 phone pole or a power pole.

12 And we're giving him commands. "Drop the
13 machete or you'll be shot, drop the machete." He
14 puts the machete down and looks at us. And then he
15 picked it back up and then continued to walk
16 southbound.

17 Q What did you do in response to that?

18 A We kept giving him commands as he walked
19 southbound. Just south of that intersection right
20 here --

21 Q (Indiscernible) intersection
22 (indiscernible)?

23 A Yeah. The -- Burnside and 122nd there. He
24 started walking south on the sidewalk. So there is a
25 bus stop right here. This is a gas station. And

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1 there's people -- I don't remember if there was
2 people at the bus stop or not, but there are people
3 at the gas station getting gas, I believe, and
4 there's people -- there's people out.

5 And so we continued to give him commands.
6 At this point, again, we don't have a real good back
7 stop to deploy the less lethals. I believe it's
8 right around the bus stop, he again puts the machete
9 down and then he picks it up again and then continues
10 to walk southbound.

11 And, at that time, I believe
12 Officer Bianchini says, "Hey, I'm good if you are,"
13 meaning, we're in a good position to, if we need to
14 deploy now, as in shooting with a less lethal,
15 we will. So Officer Bianchini shoots him with a less
16 lethal and it's somewhere right around here. I don't
17 remember exactly where.

18 Q And your pointing to sort of the driveway
19 entrance to the gas station?

20 A Yeah, driveway entrance to the gas station
21 to right in this area, yeah, to, I guess, Ankeny.
22 But it was more towards the driveway.

23 So Officer Bianchini deploys his less
24 lethal there. And then seconds after he deploys the
25 less lethal, the guy puts the machete down and then

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1 kind of veers out into the street a little bit.

2 And, at this time, there's no southbound
3 traffic at all. It's all blocked, 'cause there's a
4 whole bunch of police cars up here. However, there
5 was northbound traffic that's all stopped up. And at
6 4:30 in the day, there's a lot of cars there, just
7 'cause the lights get blocked up for Max.

8 And I don't remember how much traffic was
9 there, but I do know that there was traffic here. So
10 he starts veering out a little bit into the north --
11 or the southbound lane. There's no cars there.

12 And then he kind of comes back in to Ankeny
13 here where he stops at Ankeny there. And, at that
14 point, he turns around and looks at me and then he
15 starts reaching for his waistband.

16 And, at that point, I believed that he had
17 another weapon and that he was reaching for that,
18 which is when I deployed my less lethal. And I was
19 probably right about -- right here when I deployed my
20 less lethal and hit him, I believe, somewhere in
21 the leg.

22 Q So when you say right here, he's just kind
23 of crossing into --

24 A Yes. Southwest corner of Southeast Ankeny
25 and Southeast 122nd.

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1 Q Thank you. And you talked about when
2 Officer Bianchini fired his less than lethal. Did
3 you see it make contact with the subject?

4 A I don't recall.

5 Q Okay. Did he react in any sort of way as
6 if he had been hit?

7 A He did put the machete down.

8 Q Okay. And then he walked out of the
9 roadway, you said?

10 A Yes.

11 Q Did he ever make an attempt to pick up the
12 machete again?

13 A No.

14 Q Okay. So you believe, after the
15 Officer Bianchini fired his less than lethal, you
16 believe that's when the hatchet was last set down?

17 A Yes.

18 Q Okay. And then you said he moves forward.
19 He goes to the -- I guess the northwest corner of
20 122nd and Ankeny?

21 A Southwest corner.

22 Q Sorry, southwest corner.

23 A And, at that point, he turns around and
24 looks at me and he starts, like reaches down towards
25 the waistband and I believe he's reaching for another

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1 weapon. And so that point is when I shoot my less
2 lethal.

3 Q And you stated you thought you hit him in
4 the leg?

5 A Yes.

6 Q Did that get a reaction from him?

7 A Not a big one.

8 Q Okay. What did he do in reaction?

9 A After that, he turned around and started
10 moving southbound again. And right about that
11 time -- so there's a little bit of a hill in between
12 Ankeny and Ash.

13 And so more police cars started coming.
14 They were running code. And as more cars start
15 arriving, he took off running and started running
16 southbound on 122nd towards Ash.

17 Q Okay. To the best of your knowledge, how
18 many less than lethal rounds were deployed?

19 A Two.

20 Q And one from you and one from
21 Officer Bianchini?

22 A Yes.

23 Q When you said he was digging at his waist
24 and you believed he was reaching for another weapon,
25 had you heard that he potentially had another weapon

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1 on the radio or did you just develop that opinion
2 based on how he was acting?

3 A So the initial call was that he was at
4 Safeway. And so Safeway is north of Burnside at
5 Glisan. And at that call, I believe that he had been
6 messing with people's cars.

7 And a security guard had contacted him
8 there and that this individual claimed that he was a
9 federal agent and threatened the security guard with
10 a knife.

11 Q So was it with that information and the way
12 that the individual was acting by digging into his
13 waistband, you developed the opinion that you thought
14 he had another knife?

15 A Yes, sir.

16 Q Okay. Now, you said he took off running
17 southbound towards Ash Street. Did you then maintain
18 a visual on him?

19 A I maintained a visual until he turned and
20 ran westbound on Ash. And --

21 Q Were you actively giving chase?

22 A I was, but a ways back. Yeah. We were
23 quite a ways back at that time. And then when he
24 turned to run westbound on Ash, a couple police cars
25 drove by me. And I believe it's one of them that

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1 actually saw him go into a apartment complex. I
2 didn't see him go in there.

3 Q Did you eventually make it up to Ash
4 Street?

5 A Yes.

6 Q Did you eventually make it to the apartment
7 complex?

8 A Yes, I did.

9 Q When you arrived, how many other officers
10 were already there on scene?

11 A At first, there was -- I remember one
12 officer for sure right at the alcove. And he was --
13 it looked like he was getting ready to run in -- into
14 the alcove. I yelled, "Wait, wait, wait." And so we
15 waited 'til there was a group of like five or six of
16 us to actually go down the alcove and contact him.

17 Q And did you maintain less than lethal
18 cover?

19 A Yes.

20 Q Did it -- do you recall what other sort of
21 tools other officers had at that time?

22 A I believe there was another less lethal and
23 a shield was brought in later. I don't know at what
24 point it arrived. And somebody had a AR rifle, but
25 that may have come a little bit later as well. I

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1 don't recall exactly when he walked up.

2 Q And do you recall what officers were there,
3 who was there?

4 A I believe Officer Leonard was there,
5 Officer Doran. His first name is Christian and I
6 forget his last name. Sorry. And I -- the other
7 officers, I don't remember.

8 Q Okay. When you look down this breezeway
9 that we're going to be talking about here, did you
10 see the subject in that area?

11 A Yes.

12 Q Do you know about where he was located?

13 A So he was located -- is there a good
14 apartment complex picture?

15 Q We can use a Google map (indiscernible) as
16 well.

17 A Okay. So, yeah, he was basically right
18 here, kind of in the -- so this corridor runs here
19 and then the corridor runs north-south here. And
20 this corridor runs west. Then there's a staircase
21 right here that leads to upstairs, so it's a
22 two-level apartment complex. And so there's stairs
23 right behind him.

24 So he's pretty much right here, but there's
25 stairs right behind him that access the whole

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1 upstairs of the apartment complex.

2 Q And so from your vantage point, where were
3 you standing? Were you towards the street more or
4 were you also in the -- into the corridor?

5 A We went into the corridor. Yeah, from
6 here, I couldn't say exactly where we were, but yeah,
7 we were probably 20 feet away-ish.

8 Q And did you have a clear view of the
9 subject?

10 A Yes.

11 Q Could you tell us what he was doing at that
12 time.

13 A At that time, he had stopped and he was
14 looking at us and he was kind of rocking back and
15 forth, kind of from side to side. And he was staring
16 at us. And he was kind of staring, like right
17 through us at the same time, if that makes sense.

18 And to me, what it kind of looked like was
19 that he was trying to figure out what he was going to
20 do, like what his options were. So I guess, to put
21 it simply, fight or flight.

22 Q Was he being given commands at the time?

23 A Yes.

24 Q Was he complying with those commands?

25 A No.

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1 Q What kind of commands were being given?

2 A Get on the ground, get on the ground.

3 Q Did you ever see him make any attempt to
4 get on the ground?

5 A No.

6 Q At that time that he was standing there
7 looking towards you, did you see whether he had any
8 weapons or not?

9 A I did not.

10 Q About how far away do you think you were
11 from him?

12 A I would guess about 20 feet.

13 Q Were there other officers between you and
14 the subject?

15 A I don't believe so, no.

16 Q You think you had a straight line of sight?

17 A Straight, yes.

18 Q If there were other officers to the side of
19 you and more forward or more closer, did you
20 notice that?

21 A So we were kind of all, I guess, on a line,
22 more or less. I mean, it could have been a little
23 bit off, but we were pretty much all at the same
24 plane. And there were several officers to my left,
25 yes.

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1 Q To your left. Was Officer Doran one of
2 those officers?

3 A Yes.

4 Q Did you ever see the subject reach for any
5 weapon or display any weapon?

6 A I saw the subject reach down into the
7 waistband. I never saw a weapon.

8 Q Was he at all times squared up with you?
9 Meaning was he looking directly at you or did he
10 change his viewpoint to other officers or different
11 areas?

12 A He did change his viewpoint a little bit to
13 face officers to my left, I believe, more directly.

14 Q So before, when you first turned into this
15 corridor and he turns around and he's facing you --

16 A Mm-hmm.

17 Q -- was he more squared up with you at that
18 point?

19 A Yes, I believe so.

20 Q But, at some point, he turned, ever maybe
21 so slightly to the right, his right --

22 A Yes.

23 Q -- your left?

24 A Yes.

25 Q Okay. Did you deploy any more less than

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1 lethal rounds?

2 A No.

3 Q Was a Taser ever fired?

4 A No.

5 Q And you said that you thought somebody else
6 had a -- their firearm drawn? Did you know who that
7 was? Or did you know that?

8 A I didn't know that.

9 Q You didn't know that. Okay. Sorry. Did
10 you hear gunshots?

11 A Yes.

12 Q Could you tell where they came from?

13 A To my left.

14 Q Came from your left?

15 A Yes.

16 Q Did you see the suspect react to the
17 gunshots?

18 A Yes. So he kind of spun a little bit and
19 then he leaned against a post and then he looked
20 extremely confused and then he kind of slid down the
21 post and then ended up lying down on the ground.

22 Q And when you say he -- at the time that it
23 appeared that he was shot, was that the time that he
24 was facing to your left?

25 A Yes.

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1 Q And when you say he turned as the shots
2 were being fired, did he turn to his right or to his
3 left?

4 A I think he turned to the left.

5 Q His left?

6 A His left. And ended up leaning against a
7 post that would kind of be facing westbound.

8 Q Okay. And then slid to the ground from
9 there?

10 A Yes.

11 Q Were you part of the group that then
12 approached the subject?

13 A Yes.

14 Q And how was that done?

15 A Somebody had a shield. And so as soon as
16 he was on the ground, we made a plan to go contact
17 him and give him first aid. Right off the bat,
18 somebody placed him in handcuffs and then I saw that
19 he had a bullet wound on his arm, so I put a
20 tourniquet on it.

21 Somebody else put a tourniquet on the other
22 arm. And then other officers applied the sealing
23 first aid stuff to his back.

24 Q Okay. Did you stay on the scene while
25 medical was being administered?

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1 A Yes. So while we were working on him, at
2 first, we believed he had a pulse. And then he
3 didn't have a pulse, so I took the handcuffs off him.
4 He was on his chest at that time, lying face down.

5 We turned him on his side after we had him
6 in handcuffs and we had the tourniquets on and the
7 back seals. Once we realized he didn't have a pulse,
8 we took the handcuffs off, put them on the back.

9 And then an officer started giving CPR.
10 And then I transitioned in to give CPR. And then
11 another officer transitioned in after me to give CPR
12 and then Portland fire arrived.

13 Q And, Officer, when you said that after the
14 shooting, you and this team went up there with a
15 shield, placed him in handcuffs. What's the purpose
16 of placing somebody in handcuffs after a shooting?

17 A Basically to get them into custody. If
18 that person -- that person still is a threat to us
19 until we have them in custody. So it's to
20 protect us.

21 Q Did you know at that point whether he had
22 any other weapons?

23 A I didn't see any weapons.

24 Q After he was administered medical and
25 handcuffs removed, sounds like there's quite a few

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1 people there, but at any time did you notice a
2 weapon?

3 A No.

4 Q I want to go back a little bit to the --
5 about the ECIT. You're trained in (indiscernible)
6 crisis incidents here. And you have to evaluate
7 every situation differently; is that correct?

8 A Correct.

9 Q When you arrived, being an ECIT, although
10 that wasn't necessarily going to be your primary
11 role, what was your sort of evaluation of the scene
12 and how ECIT might be helpful or not be helpful?

13 A In this situation, the scene was too
14 chaotic, rapidly unfolding and we had zero
15 containment on the person. He was moving southbound.
16 Other officers were still to the north of him.

17 And Officer Bianchini and I were the only
18 officers engaging him at that point. It was rapidly
19 unfolding. It was not a ECIT situation.

20 Q As an ECIT, are you trained to, of course
21 not diagnose any mental illness on the scene, but to
22 recognize when somebody is maybe in a mental health
23 crisis?

24 A Yes.

25 Q And was it your perception at that time

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1 whether you believed this individual was under a
2 mental health crisis or -- and/or under the influence
3 of some sort of intoxicant?

4 A I believed that he was probably under the
5 influence of some sort of intoxicant.

6 MR. HANNON: Just -- Dave Hannon, just for
7 the record.

8 BY MR. HANNON:

9 Q One follow-up. You mentioned that after
10 the second less lethal was deployed, at some point in
11 the sequence of events, he started to increase his
12 speed and run towards Ash and then there was an
13 officer who started to give chase that you told to
14 stop and you wanted a bigger group?

15 A Yes, sir.

16 Q First, do you recall which officer was
17 starting to give chase?

18 A I believe it was -- I don't remember his
19 last name. His first name's Christian.

20 Q Yeah.

21 A I think he was right at the alcove right
22 there.

23 Q And why was it -- was it just as an officer
24 or as an acting sergeant or both, did you instruct
25 the officer to not proceed by himself and wait for

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1 larger numbers?

2 A It would be both. As a sergeant, you want
3 to kind of get a team together, but even just for
4 officer safety, you want to contact somebody with
5 more officers for officer safety reasons.

6 Q And the way this individual proceeded down
7 Ash, did you have clear lines of sight as to which
8 direction he was going and where he would wind up if
9 one person by himself were about to pursue him?

10 In other words, would he have been able to
11 get a blind corner or catch the person by surprise if
12 there weren't stronger numbers to pursue?

13 A I wouldn't be able to answer that, 'cause
14 once he turned on Ash, I was still a ways back.
15 Yeah, so I don't -- I don't -- I don't know how he
16 went down Ash. Yeah, I don't know.

17 Q So in other words, you didn't have the
18 information or layout as to what he was running into?

19 A Correct.

20 Q And that's -- was that another factor as to
21 why you wanted more numbers to pursue, as opposed to
22 one person?

23 A So at -- this is something that the other
24 officer would have to answer to, 'cause I just got
25 the information that he had gone down the alcove,

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1 which is -- it's, I don't know -- so this is 122nd.
2 So you're probably talking 75 yards-ish, maybe
3 100 yards in to where he actually runs south in the
4 alcove.

5 So, yeah, I -- I don't know where he went,
6 how he proceeded in -- down Ash. And I don't even
7 recall truly where this information was that he had
8 gone down there, like which officer said that at
9 first.

10 Q So it was -- in trying to get more numbers,
11 trying to have a safer plan as to how to initiate
12 contact or pursue before --

13 A Yes.

14 Q -- letting someone do it by themselves?

15 A Yes.

16 Q And so you mentioned CPR was rendered on
17 this individual after the shots were fired. Was that
18 chest compressions that you guys were rotating in and
19 out --

20 A Yes.

21 Q -- on this person? And you were doing that
22 nonstop until medical arrived?

23 A Yes, sir.

24 Q Not you individually. You as a team?

25 A Yes. So there was three of us that did

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1 chest compressions. I was the second officer and
2 then an officer took over for me until Portland fire
3 arrived and they started medical aid.

4 Q To your recollection, was there any other
5 medical devices used, such as something in his nose
6 to help him breathe as well, as you guys are doing
7 that? What do you recall?

8 A I don't recall.

9 MR. OVERSTREET: Okay. I think that's all.

10 MR. HANNON: Any questions from the grand
11 jurors?

12 A GRAND JUROR: Yeah. Who -- how -- who
13 decided to go into the alcove and did you decide to
14 go in as a team or -- yeah.

15 THE WITNESS: Yeah. It was kind of a
16 collective once we were there, we went in.

17 A GRAND JUROR: And was that based on
18 training?

19 THE WITNESS: I would say yes. Yeah.
20 There was no point where we're like, okay, let's go.
21 It was just once we had enough officers there, we
22 just went.

23 A GRAND JUROR: And did each of the people
24 have a specified role?

25 THE WITNESS: Not an assigned specified

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1 role. I had less lethal. I believe there may have
2 been another less lethal. And then I don't remember
3 who had what tool out.

4 A GRAND JUROR: Okay. Thank you.

5 A GRAND JUROR: In that complex, is there
6 like four buildings in one unit or is there, like,
7 just two and then is that other -- the one that's
8 facing north-south, is that like a separate dwelling?

9 THE WITNESS: So are you talking about,
10 like, apartments?

11 A GRAND JUROR: Yeah. Like the apartment
12 itself. Is that all one unit? I mean one apartment
13 complex?

14 THE WITNESS: Yeah. This is all one big
15 complex and then this is the corridor that runs
16 through the complex. And then the -- the doors to
17 the units open in towards the corridor.

18 And that's upstairs, two levels. So
19 upstairs doors empty onto the upstairs corridor and
20 the downstairs goes to the downstairs corridor.

21 A GRAND JUROR: So approximately how many
22 units are in that?

23 THE WITNESS: I'm sorry. I don't know.

24 A GRAND JUROR: When you first arrived on
25 scene, I guess 122nd and Burnside, is there any way

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1 visually for other officers on the scene to identify
2 you as either sergeant or ECIT trained?

3 THE WITNESS: Visually, ECIT, no. So for
4 the sergeant, when you're promoted sergeant, you have
5 stripes. The acting sergeant, you just have the
6 little sergeant pins, so it's kind of hard,
7 especially in an active situation.

8 A GRAND JUROR: Yeah. Kind of different
9 question. I think you said that one of the reasons
10 you didn't engage this person with what you've
11 learned in your ECIT training was that they were so
12 agitated and it wasn't a very controlled situation.
13 Does ECIT training involve how to interact with
14 subjects in that sort of situation where there may be
15 aggressive or highly agitated?

16 THE WITNESS: So we do scenarios.
17 Sometimes people just don't calm down and there's,
18 unfortunately, not a whole lot you can do. It's --
19 the person has to make their own decisions.

20 A GRAND JUROR: When you heard the gunshots
21 from your left, was the subject moving forward
22 towards you guys or he was just sitting with his
23 (indiscernible)?

24 THE WITNESS: He -- from what I recall,
25 yeah, he was standing. I don't recall him moving

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1 forward.

2 A GRAND JUROR: That was immediately after
3 he reached for -- seconds after he reached for his
4 waistband (indiscernible)?

5 THE WITNESS: So -- yeah. So my angle was
6 a little different than other officers' angles. So I
7 just saw him kind of putting his hands down there,
8 but yeah, right after he put his hands down there was
9 when I heard the shots.

10 BY MR. OVERSTREET:

11 Q And just to circle back on a couple points,
12 go back to your ECIT training. Thank you for that
13 question.

14 When you're doing ECIT training, I presume
15 that that is a situation where you're going through
16 scenarios where you're trying to build rapport or
17 defuse, in highly agitated scenarios, you defuse the
18 situation to bring the agitations down. Is that a
19 fair scenario?

20 A Yes. Yes. That's -- that's correct.

21 Q Now, in a situation such as this one, did
22 you ever feel that there was any control that the
23 officers had over the situation in trying to regulate
24 this individual's behavior to corral or connect it to
25 a situation where then you can engage and so that

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1 scenarios that you had in ECIT training, to start
2 building that rapport or deescalate his agitated
3 behavior?

4 A Yeah. I didn't -- his extreme agitated
5 state and constant movement, not responding to any
6 commands, there was just -- we were unable to start
7 any dialogue with him or engage with him.

8 It was just my main concern was the safety
9 of people in the area and the safety of the officers.
10 And, at that point, he was not calming down and we
11 were unable to -- there wouldn't have been a
12 dialogue.

13 Q And going back to your similar point about
14 you did not want to let him into the convenience
15 store earlier, minutes earlier in this incident, did
16 you have any similar concerns about this apartment
17 complex or individual dwellings as he was no longer
18 creating distance or running away from you guys, but
19 instead, turning around and approaching the officers?

20 A Yes. Again, even going into the
21 neighborhood, I had a lot of concerns. He was still
22 very agitated, potentially armed, going into a
23 neighborhood. And, I mean, for me, I have kids. And
24 this is a warm summer day. I know that there's kids
25 in the neighborhood there.

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1 And as a parent, I would be extremely
2 concerned and even scared for my kid if this guy had
3 come down the street acting the way that he was.
4 Going into the apartment complex, there was people
5 out in the apartment complex.

6 And, again, same as kind of the convenience
7 store, I felt that this was a situation that needed
8 to be addressed immediately. And we needed to, for
9 the safety of everybody involved, contact him.

10 A GRAND JUROR: And when he was in this --
11 in the corridor or anywhere in there, was he -- he
12 was just agitated, but he wasn't aggressively doing
13 anything aggressive or --

14 THE WITNESS: He was focused on us. So at
15 that time, he was just kind of rocking back and forth
16 and -- and staring at us.

17 A GRAND JUROR: But not making any motions
18 or aggressive behavior or anything, nothing that had
19 changed from when he was walking?

20 THE WITNESS: At the time that we contact
21 him there, yeah, his -- his focus was on us. And he,
22 at that point, when he was walking, he was yelling
23 and screaming.

24 And I don't recall him yelling or anything
25 in the apartment complex. He still seemed agitated,

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1 and he was definitely a threat, but at that point, I
2 think he just seemed to be focused on us.

3 A GRAND JUROR: Can you orient us as to
4 when you gave Officer Christopher Santos not to give
5 chase, so orient us geographically where he was,
6 where you were and were any of the less lethal shots
7 or any other shots fired or in relation to your
8 saying to Christopher, don't go?

9 THE WITNESS: So less lethal, both
10 less-lethal deployments were back here on 122nd, just
11 right in this area. This is where both less-lethal
12 deployments were there.

13 A GRAND JUROR: Above Ankeny?

14 THE WITNESS: Above Ankeny, north of
15 Ankeny, yes. And then Officer Santos -- thank you,
16 by the way -- was about -- he was right about in the
17 alcove.

18 And so when he came running this way, other
19 police cars went this way, so I didn't see where he
20 went, which is why I assumed that another officer may
21 have seen him go in there.

22 I don't know how he got the information
23 that he was in the alcove. But Officer Santos was
24 right here and I was probably running about right
25 here and started yelling at him to wait.

Examination of David Kemple

1 A GRAND JUROR: So Santos was on Ash
2 Street?

3 THE WITNESS: Yes. And that would have
4 been right at the alcove entrance on the right there.

5 MR. OVERSTREET: Any other questions?

6 A GRAND JUROR: I have one more. Sorry.

7 THE WITNESS: That's all right.

8 MR. HANNON: There's no apologies taken.
9 This is your witness, so if there's any questions
10 (indiscernible).

11 A GRAND JUROR: So at that moment when he
12 got shot, were you or anybody else prepared to try
13 the nonlethal at all at that point or --

14 THE WITNESS: At that point with my angle,
15 I was waiting to see what he was going to do. I did
16 have my less lethal with me, but I did not deploy a
17 round at that point. I was prepared to. I didn't.

18 A GRAND JUROR: How many shots did you
19 hear, do you remember? If you remember.

20 THE WITNESS: From what I recall, it's five
21 or six. Can't say for sure how many shots there
22 were, though.

23 MR. OVERSTREET: Any other questions?

24 Okay. That's it.

25 THE WITNESS: Thank you.

Examination of Nicholas Bianchini

1 MR. OVERSTREET: Thank you.

2 MR. HANNON: I, with your permission, have
3 one more witness before we take our afternoon break
4 if that works for you. Next, we'll call
5 Officer Bianchini and Dave Hannon, I will take that,
6 for the record.

7 Stand right there. Raise your right hand
8 and we'll swear you in.

9 **NICHOLAS BIANCHINI**

10 Was thereupon called as a witness; and, having been
11 first duly sworn, was examined and testified as follows:

12 MR. HANNON: Go ahead and have a seat.

13 **EXAMINATION**

14 BY MR. HANNON:

15 Q And could you start by please stating and
16 spelling your name for the record.

17 A My name is Nicholas Bianchini,
18 N-i-c-h-o-l-a-s, B-i-a-n-c-h-i-n-i.

19 Q Officer Bianchini, how are you currently
20 employed?

21 A I'm currently employed as a police officer
22 for the City of Portland.

23 Q And how long have you been with the City of
24 Portland?

25 A Over ten years.

Examination of Nicholas Bianchini

1 Q And what is your current assignment with
2 the City of Portland?

3 A I am currently assigned to patrol, east
4 precinct.

5 Q And at the time of this incident, was that
6 your assignment as well was the patrol of east
7 precinct?

8 A Yes.

9 Q And what was your shift?

10 A Afternoon shift, 4:00 p.m. to 2:00 a.m.

11 Q And in addition to your ten years of
12 working with the Portland Police Bureau, have you had
13 any training at the advanced academy?

14 A I have.

15 Q Have you had training with the Rapid
16 Response Team?

17 A I have.

18 Q What's -- and just briefly, what's the
19 Rapid Response Team?

20 A It was our -- our team that's assigned to
21 crowd control, the protests downtown. We go down
22 there and try to maintain order and keep the streets
23 open.

24 Q And have you also had grenadier instructor
25 school training?

Examination of Nicholas Bianchini

1 A I have.

2 Q And have you also had AR-15 training?

3 A I have.

4 Q And have you also had training in the less
5 lethal 40 caliber -- 40-millimeter caliber less
6 lethal round training?

7 A Yes.

8 Q Now, you mentioned that your shift was
9 4:00 p.m. to 2:00 a.m. When you start a shift, is
10 there typically a roll call before you actually go on
11 patrol and go out on the streets?

12 A Yes.

13 Q And just briefly, can you tell the grand
14 jury just what is roll call?

15 A Roll call is when everybody gets their
16 assignment for the day. They're told where they're
17 working. My district changes quite a bit, so that's
18 when I'm told what area of the precinct I'm going to
19 be working that day.

20 They go over some of the recent events that
21 have happened in the precinct. If somebody is
22 currently wanted for something, they'll tell us about
23 that person and to keep an eye out.

24 Q So just a brief period of time where
25 there's some information dissemination, some

Examination of Nicholas Bianchini

1 assignments and then once that's wrapped up, do you
2 go to patrol?

3 A Yes.

4 Q Now, turning your attention to this
5 particular incident, Case No. 19-258996. You were
6 working as patrol that day?

7 A Yes.

8 Q And you did roll call prior to this
9 incident?

10 A Yes.

11 Q And then is it fair to say that this
12 incident occurred shortly at the start of your shift?

13 A Yes.

14 Q And what was your -- just briefly describe
15 your understanding of the call as you decided to
16 respond to it.

17 A The first I heard about the call was
18 somebody had a machete and there was a call that was
19 developing that wasn't really near my area. And then
20 I heard Officer Zentner request that she needed more
21 police officers there as fast as they could.

22 Q And you've worked with Officer Zentner
23 before?

24 A I have.

25 Q Now, and the way she was characterizing or

Examination of Nicholas Bianchini

1 asking for more help or cover, would you characterize
2 this as more of an active call versus a cold call?

3 A Yes, sir.

4 Q Now, just briefly, a cold call is one where
5 the incident has happened and really it's more about
6 preserving the scene or follow-up information to see
7 if you can locate a suspect?

8 A Yes.

9 Q Whereas an active call is still ongoing and
10 active?

11 A Yes, sir.

12 Q When you respond to the call, where would
13 you say approximately you responded to? Well, let me
14 ask this first.

15 Were you in the car alone or were you with
16 somebody else?

17 A I was alone.

18 Q And approximately, geographically, where
19 did you respond when you first encountered the scene?

20 A Let's see. I was at about 112th and Market
21 Street. And the call was over at 122nd and Glisan,
22 to my understanding. So that was about 10 blocks
23 east and 20 blocks north.

24 Q And sorry, just to clarify. So when you
25 responded to the scene, did you respond to the

Examination of Nicholas Bianchini

1 location at or around 122nd and Burnside?

2 A Yes.

3 Q Okay. And so obviously, we have a map
4 behind us. Let me zoom out a little bit for you. If
5 I zoom out and I point to the map, so when you
6 arrive, you arrived from eastbound or westbound?

7 A I arrived from --

8 Q West, heading east?

9 A I was at 122nd heading north.

10 Q Okay. 122nd north. So you came from this
11 direction up and you stopped right around here?

12 A Yes, sir.

13 Q Now, when you respond to the scene, you
14 have various tools or instruments at your disposal to
15 try to help and assist in this; is that right?

16 A That's right.

17 Q And what -- what item did you decide to
18 take with you to help respond?

19 A My 40-millimeter launcher.

20 Q And -- and that is a less-lethal tool?

21 A Yes, sir.

22 Q And from your training and experience, you
23 know, what is the purpose of the less-lethal tool?
24 How does it work?

25 A It's to gain compliance. It's a pain

Examination of Nicholas Bianchini

1 compliance tool. Trained if somebody has a weapon to
2 deploy it on them in certain target areas, so they'll
3 drop a weapon and hopefully listen to our commands.

4 Q And is it similar to a pistol that can fire
5 quickly, multiple rounds or does it take a couple
6 seconds per round?

7 A It can fire one round and then it needs to
8 be breeched open and reloaded. So it takes a few
9 seconds to reload it.

10 Q So if you are unsuccessful in firing a less
11 lethal round and you have to unload it, reload it and
12 get ready for a second round and you missed, is there
13 any potential exposure or risks to you if the target
14 or the person you're trying to gain compliance from
15 decides to focus their attention on you?

16 A Yes.

17 Q And what are those risks?

18 A The risk would be you could be put in
19 harm's way while you're reloading if you don't have
20 somebody to cover you in a lethal capacity to protect
21 you while your reloading.

22 Q And you said in a lethal capacity, but is
23 it also possibly that you may have someone else with
24 a less lethal partnered with you to fire a second
25 less lethal while you have engaged with your less

Examination of Nicholas Bianchini

1 lethal?

2 A Absolutely.

3 Q And so while you're reloading, that person,
4 if needed, can fire their less lethal?

5 A Yes.

6 Q Now, we've heard a couple times from
7 witnesses in this case, be mindful of their back
8 stop. Have you been trained on the -- or backdrop,
9 as some said as well. Are you trained in the idea of
10 a back stop or backdrop?

11 A Yes.

12 Q And what is that concept, as you're
13 engaging and formulating ideas what to do with your
14 less-lethal tool?

15 A It's just being aware of, you know, what
16 might happen if my round that I fire over penetrates
17 or goes beyond the person I'm trying to hit. You
18 don't want to hit somebody who's completely innocent
19 behind, you know, the person that's threatening you.

20 With a 40-millimeter, you need considerably
21 less backdrop than you do for, you know, a bullet
22 round from a firearm.

23 Q But based on your training and experience
24 in this, meaning because a bullet, it can traverse
25 quite a distance down an empty street or down on

Examination of Nicholas Bianchini

1 avenue or through homes; is that right?

2 A That's correct.

3 Q Whereas less lethal, it's less likely to do
4 some of those -- some of that damage or risk factors?

5 A Right.

6 Q Now, but I presume in your training with
7 less-lethal rounds in -- in that device, you don't
8 want to miss and say, hit a civilian in the chest,
9 torso, head when your intended target is the person
10 you're trying to gain compliance on?

11 A That's correct.

12 Q So when you're deciding whether or not to
13 use this item, are those some calculations that are
14 at play when you're determining whether or not you
15 want to use that device?

16 A Yes.

17 Q Now, when you decided to grab that
18 implement, the 40-millimeter, what was some of the
19 first thing you observed out of the individual that
20 you're responding to when you arrived at the scene?

21 A I observed that he was holding a hatchet in
22 his -- in his hand. He was waving it around. He was
23 very -- wasn't listening to any of the commands I was
24 giving him or giving to him. He was --

25 Q What were some of the commands you were

Examination of Nicholas Bianchini

1 giving to him?

2 A I was telling, you know, drop the hatchet
3 or I'm going to, you know, fire my 40-millimeter at
4 you. I was telling him --

5 Q Did you say I'm going to fire my
6 40-millimeter at you or just drop the hatchet, I'm
7 going to shoot?

8 A "Drop the hatchet or you're going to get
9 bean bagged."

10 Q Okay. Is that how you said it?

11 A Yeah. I was originally trained on the
12 beanbag shotgun, so that's kind of what I fall back
13 into saying, because that's what I said for years. I
14 told him to drop -- "Drop the hatchet or you're going
15 to get bean bagged."

16 Q And did he follow that order?

17 A He did not.

18 Q And when he was waving the hatchet around,
19 was the blade out or was the blade in?

20 A I think the blade was -- I can't remember
21 exactly which way it was facing, but it was --

22 Q And was he waving it around in a way that
23 was aggressive or a way that was just nonsensical?

24 A Both.

25 Q And you mentioned that you arrived at this

Examination of Nicholas Bianchini

1 location shortly after you started your shift at
2 4:00 p.m. on 122nd and Burnside. How would you
3 characterize that neighborhood as in regards to
4 people in attendance, meaning people out and about?
5 Is it populated or is it sparsely populated?

6 A It was very populated.

7 Q And what -- what concerns did that raise
8 for you as you responded to the scene to assist
9 and -- and grabbing the less-lethal device?

10 A I was concerned with that, you know, the
11 subject with the hatchet might try to harm somebody
12 that was waiting at the MAX platform stop.

13 I was very close to him when I first
14 contacted him and there was people all around the
15 intersection waiting for the next trains to come
16 through, a lot of cars that were stopped because of
17 him. And I was concerned that he might try to harm
18 the police officers that were following behind.

19 Q Now, in addition to the less lethal
20 40-millimeter, in your training, both in basic and
21 advanced academy, have you also been trained on
22 different uses of force and deescalation?

23 A Yes.

24 Q Is one of the uses of force that you can or
25 can employ commands or tone of voice or orders to a

Examination of Nicholas Bianchini

1 person to -- to obey your commands?

2 A Yes.

3 Q And did you use those commands and orders
4 to this individual?

5 A Several times.

6 Q How would you, in addition to his behavior
7 with the machete, how would you characterize his
8 appearance and his mannerisms as he was engaging with
9 the officers or those around him?

10 A He appeared very agitated. He wasn't --
11 wasn't listening to anything, any commands that were
12 being told to him. He was very sporadic,
13 unpredictable and was just very stressful, tense
14 situation.

15 Q Now, we've heard earlier about CIT or
16 Crisis Intervention Training. You yourself have
17 received Crisis Intervention Training?

18 A I have.

19 Q And in -- as part of that Crisis
20 Intervention Training, do you look for -- and in your
21 ten years of experience as an officer, have you been
22 able to, based on that training and experience, pick
23 up signs or symptoms of someone who might be in
24 mental health crisis?

25 A Yes, sir.

Examination of Nicholas Bianchini

1 Q And have you also been able to, in your
2 ten years of experience and Crisis Intervention
3 Training, be able to pick up signs and symptoms of
4 someone who may be under the influence of various
5 forms of intoxicants or stimulants?

6 A Yes.

7 Q Based on your training and experience and
8 observations in this particular incident, did you
9 have an opinion as to whether or not what was going
10 on with the person you were engaged with handling the
11 hatchet, as you described it?

12 A To me, it appeared that he was high on
13 something, like methamphetamine or something similar
14 to that. That's behavior that I've seen from other
15 people that were high on that.

16 Q Given your description of him as being
17 agitated and moving the hatchet around, were you able
18 to make sense as to what the source of that agitation
19 was? Was there anything he was communicating to you
20 clearly or focused that you could pick up on to see
21 what was agitating him so much?

22 A I don't know.

23 Q Now, at some point, did you pursue this
24 individual in any sort of direction, geographically?

25 A Yes.

Examination of Nicholas Bianchini

1 Q And what direction did he head in and what
2 direction did you do as well?

3 A He crossed my path going south on 122nd.
4 So I went from being to the south of him to being to
5 the north of him when he crossed by.

6 Q And during that entire time as he's passing
7 you, are you yelling at him commands and orders to --
8 with regards to his weapon?

9 A Yes.

10 Q So if I understand correctly, at some
11 point, geographically, you're starting here on the --
12 were you on the eastbound side of Burnside or the
13 westbound -- I'm sorry, 122nd or the westbound side
14 of 122nd? Do you recall?

15 A I started out on the east side.

16 Q Okay. And so at some point -- you just
17 indicated that you were south of this individual as
18 he was approaching you. So he is walking southbound
19 on Northeast 122nd?

20 A Yes.

21 Q And he's passing your path still heading
22 southbound on what is now turning into Southeast
23 122nd?

24 A Yes.

25 Q And to that point geographically now,

Examination of Nicholas Bianchini

1 you've positioned yourself being north of him as he's
2 still walking head of you, southbound?

3 A Correct.

4 Q And during that entire time, you're yelling
5 at him commands to drop the weapon?

6 A Yes.

7 Q Were there any other officers or other
8 people in uniform present with you as you were giving
9 those commands and trying to instruct him to stop?

10 A I remember Officer Kemple arrived shortly
11 after I did and I heard him give some commands also.

12 Q And were you able to -- is it fair to say
13 that your focus was on this individual and as he
14 related to the public around him?

15 A Yes.

16 Q So you -- you don't necessarily have an
17 itinerary or a checklist of all the other officers
18 who may have been present north of you following him
19 southbound?

20 A No. I was positioned, being in the front
21 and I don't think anybody else was in front of me,
22 officer-wise.

23 Q Okay. So then Officer Kemple arrives and
24 joins you. Do you recall what, if anything,
25 Officer Kemple did as you were trying to engage with

Examination of Nicholas Bianchini

1 the suspect or giving commands?

2 A I don't remember.

3 Q Okay. What, if anything, did you guys do
4 next? Did you pursue him as he walked southbound?

5 A Yeah. We walked -- we kind of trailed him,
6 so we kept kind of the same distance away from him
7 the entire time as he moved further to the south. We
8 migrated also to the south.

9 Q And were you trying to be mindful
10 (indiscernible) giving him some distance as this was
11 going on?

12 A Yes.

13 Q And -- and was that part of your training
14 in deescalating someone in this agitated state?

15 A Absolutely.

16 Q So as you were giving him some distance,
17 but still following, what happened next?

18 A He crossed over 100 and -- or he crossed
19 over Burnside onto the -- can I just show you?

20 Q Yeah, absolutely. Move the microphone,
21 though, so they can hear you. Go ahead.

22 A Okay. So when I arrived, I parked my car
23 right here and he was walking on the sidewalk with a
24 group of officers following behind him. I parked my
25 car quickly, got out of it, grabbed my 40-millimeter,

Examination of Nicholas Bianchini

1 which was in my trunk and contacted him when he was
2 on this corner.

3 He walked across Burnside and this whole
4 Max platform was just full of people waiting for the
5 trains and the cars were backed up going both ways on
6 the street. He crossed over to the, I guess it's the
7 southwest corner of 122nd and Burnside.

8 And Officer Kemple and I at this point had
9 kind of latched up, 'cause we both have the
10 40-millimeters, you know, and we can deploy it in
11 tandem if we have to, if we had to.

12 And we just had a short conversation about
13 not letting him go into the store here. There's a
14 door around the corner of this -- I think it's a gas
15 station store. But he could have walked right into
16 it with the hatchet, which was still in his hand,
17 acting the way he was. And we didn't think that was
18 a good idea.

19 So, actually, I told -- I told
20 Officer Kemple, "Hey, I'm not going to let him go in
21 the store with that hatchet. I'm going to use my
22 40-millimeter on him if he tries to do that."

23 He never tried to do that. He never went
24 and tried to go inside the store. And -- and he
25 continued to go southerly on 122nd along the

Examination of Nicholas Bianchini

1 sidewalk. At one point, he dropped the hatchet for a
2 brief second and picked it back up.

3 Q And when he picked it back up, did he kind
4 of keep it as his side or did he wave it again, if
5 you recall?

6 A I remember he -- there was a tree right
7 about here in front of the store and he started to
8 kind of chop at it. I don't think he actually hit
9 the tree, but he was making that -- that movement
10 like he was going to hit the tree with the hatchet.

11 Q Okay.

12 A I continue to follow him, just trying to,
13 you know, talk to him and still giving him space. He
14 comes out in the street onto 122nd and -- and still
15 has the hatchet and he's stopping, looking back at
16 us, confronting us, you know, still kind of not
17 making very much sense. And that's when I decided to
18 deploy my 40-millimeter to get him to drop the
19 hatchet.

20 Q And did you do that?

21 A I did.

22 Q And to your recollection, did it hit him?

23 A It did.

24 Q And did it have any sort of pain compliance
25 or did he react to it as you intended?

Examination of Nicholas Bianchini

1 A It did. I mean, he -- he no longer had the
2 hatchet in his hand and he kind of ran maybe 10 to
3 20 feet after being struck by the 40-milligram [sic],
4 so --

5 Q And to your recollection and memory, did
6 you know if anyone else -- did you witness anybody
7 else fire their less lethal or any other devices
8 after you did?

9 A Yes. Officer Kemple did shortly after.

10 Q And do you recall whether or not you
11 witnessed if that had any desired effect on this
12 individual as you guys were engaging him?

13 A Pretty much immediately after Officer
14 Kemple hit him with the 40-millimeter, he -- he ran
15 south and around the corner onto, I think it was
16 probably one of those streets, so --

17 Q And did you give chase or did you pursue
18 along with the other officers who followed him?

19 A I did not.

20 Q And what, if anything, did you do after you
21 deployed your less lethal and watched the others
22 engage or head in that direction?

23 A I walked back over to where the hatchet was
24 and I think Officer Zentner stayed with the hatchet
25 and there was kind of this huge scene of cop cars

Examination of Nicholas Bianchini

1 that were blocking the street and trains were trying
2 to get through.

3 So I, one by one moved I think, three --
4 three cars out of the intersection, 122nd and
5 Burnside so people could get on the trains, so --

6 MR. OVERSTREET: For the record,
7 Sean Overstreet.

8 BY MR. OVERSTREET:

9 Q After you moved the cars, did you end up
10 going up to where the shooting had occurred?

11 A No, I never did.

12 Q At any time did you hear gunshots?

13 A I did.

14 Q Where were you when you heard the gunshots?

15 A I was still standing right next to the
16 hatchet when I heard the gunshots, so it wasn't very
17 long after he ran around the corner that the gunshots
18 happened. I didn't move any of the cars or anything
19 out of the roadway until that had already happened.

20 Q After that?

21 A Yeah.

22 Q And at no time you ever went up to where
23 the shooting had occurred?

24 A No.

25 MR. OVERSTREET: Okay.

Examination of Nicholas Bianchini

1 MR. HANNON: Grand jurors have any other
2 questions?

3 A GRAND JUROR: How many gunshots do you
4 believe you heard?

5 THE WITNESS: Maybe five or six.

6 MR. HANNON: Yes.

7 A GRAND JUROR: I probably could have asked
8 this to anybody up to this point but --

9 MR. HANNON: That's okay.

10 A GRAND JUROR: What is -- can you describe
11 the kind of round that is fired from one of these
12 40-millimeter -- I mean, 40-millimeters, is -- is
13 that the diameter or the length or what is going on?

14 MR. HANNON: Good question. Go ahead.

15 THE WITNESS: So it's a -- it's a metal
16 casing that has a -- it's a blue foam tip end on it.
17 So the metal casing fires out this blue tip. It's
18 foam.

19 It's about the energy of a fast ball like
20 in major leagues, getting hit by that. And so you
21 don't want to hit anybody anywhere major, but it's a
22 good pain compliance tool.

23 A GRAND JUROR: So just the -- the diameter
24 is 40 millimeters?

25 THE WITNESS: Yes.

Examination of Nicholas Bianchini

1 A GRAND JUROR: It's four centimeters?

2 THE WITNESS: 40 mill.

3 A GRAND JUROR: Oh, 40 millimeters. Okay.

4 Sorry. Four centimeters.

5 A GRAND JUROR: And do you know where you
6 hit him?

7 THE WITNESS: Hit him in the leg.

8 A GRAND JUROR: Okay.

9 BY MR. OVERSTREET:

10 Q Do you recall where Officer Kemple's
11 40-millimeter struck?

12 A I think he hit him in the leg also.
13 They're pretty accurate.

14 A GRAND JUROR: How far is the effective
15 range of one of your 40-millimeter --

16 THE WITNESS: I think it's around 30 yards
17 or so. You -- you lose a lot of energy pretty quick.
18 They'll drop quite a bit if something's too far away.

19 BY MR. HANNON:

20 Q And based on your training and experience
21 having been trained at the advanced academy with this
22 tool, if someone is high on methamphetamine or
23 stimulants, is it possible that it does not have the
24 same deterrent or pain compliance effect as it would
25 for someone who may not be under the influence of a

Examination of Nicholas Bianchini

1 stimulant or methamphetamine or something along those
2 lines?

3 A Yes, sir.

4 MR. HANNON: Any other questions?

5 Okay. Why don't you just wait out one
6 second while we go off the record, take our late
7 afternoon break, I should say.

8 (Recess taken, 4:00 p.m. - 4:15 p.m.)

9 MR. HANNON: We are back on the record
10 again with Grand Jury 3, Case No. 54. And for the
11 record, doing the examination will be Sean
12 Overstreet. And we'll go ahead with our next
13 witness.

14 Raise your right hand. We'll get you
15 sworn in.

16 SHANLEY BIANCA

17 Was thereupon called as a witness; and, having been
18 first duly sworn, was examined and testified as follows:

19 MR. OVERSTREET: Go ahead and take a seat.

20 Once you're seated, go ahead and state and
21 spell your full name.

22 THE WITNESS: Shanley Bianca,
23 S-h-a-n-l-e-y, B-i-a-n-c-a.

24 EXAMINATION

25 BY MR. OVERSTREET:

Examination of Shanley Bianca

1 Q And where are you employed?

2 A With the Portland Police Bureau.

3 Q And how long have you been in law
4 enforcement?

5 A For about two years.

6 Q Okay. And were you working as a police
7 officer on July 30th of this year?

8 A I was.

9 Q Okay. And did you respond to a Code 3
10 request near the intersection of Southeast 122nd and
11 Burnside Street that day?

12 A I did.

13 Q And to the best of your recollection, what
14 was your knowledge of the call that -- of the
15 request, sorry.

16 A I'm not sure what the original call was
17 because I'd just started my shift and turned on my
18 radio. But I remember the first thing I heard on the
19 radio was that there was a guy with a hatchet in the
20 area, that interchange.

21 Q Okay. And was the request specifically for
22 a Code 3 response?

23 A It was.

24 Q Okay. And were you driving your own
25 vehicle or were you arriving in a partner car?

Examination of Shanley Bianca

1 A I was driving my own vehicle.

2 Q And so you went to that location. Where --
3 did you actually go straight to 122nd and Burnside or
4 did you respond to another location?

5 A I went straight to 122nd and Burnside.

6 Q And did you park your car there?

7 A I did, in the middle of the intersection.

8 Q And did you exit your vehicle?

9 A Yes.

10 Q And did you see or come into contact with
11 the individual that you believed was the subject of
12 the call?

13 A I did.

14 Q Okay. And what was he doing at the time
15 that you arrived on the scene?

16 A When I arrived on scene, I could see a
17 group of officers yelling at an individual who was
18 moving quickly southbound on 122nd Avenue. He
19 appeared to be in distress. He was yelling and
20 waving his arms. That's what I could see as I was
21 pulling up to the intersection.

22 Q And at the time that you arrived, as he's
23 flailing his arms or waving his arms, could you see
24 anything in his hands?

25 A I saw something in one of his hands. I was

Examination of Shanley Bianca

1 at a little bit of a distance, so I couldn't see
2 exactly what it was, but he had something in his
3 hands.

4 Q And did you decide to join that group on
5 foot?

6 A I stayed at the intersection and watched as
7 the group was basically giving him commands. But
8 because he kept moving very quickly south, I decided
9 it might be a good idea to have a couple officers in
10 a car, just because everyone was out in the open,
11 that was concerning to me. So I decided to go back
12 to a vehicle and have a vehicle (indiscernible) if he
13 took off running or something like that.

14 Q Okay. And so have a vehicle in order to
15 pursue him or in order to provide cover or both?

16 A I would say both to provide cover and to
17 keep eyes on in case he picked up the pace or
18 something like that.

19 Q Okay. So you went back to your patrol car?

20 A I'm not sure it was my car, but another
21 officer, he drove and I think it was his car.

22 Q Okay. And which officer was that?

23 A Hristov, Officer Hristov.

24 Q And he drove and you were the passenger?

25 A Yes.

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1 Q Only two occupants of that car?

2 A Yes.

3 Q And did you follow the group or did you go
4 ahead of the group at that point?

5 A We followed the group.

6 Q Okay. And where did that group go?

7 A It went to about 122nd and Ash and then on
8 Ash, the group turned to go west on Ash. And it
9 stopped at this apartment complex there.

10 Q And did you -- was your vehicle taken all
11 the way up to that apartment complex?

12 A Yes.

13 Q Okay. And did you and/or Officer Hristov
14 exit the vehicle?

15 A We did.

16 Q Both of you or just you?

17 A Both of us.

18 Q Okay. And then where did you go once you
19 exited the vehicle?

20 A So I followed the group of officers. I
21 still didn't see the suspect. I lost sight of them
22 because they were in front of us and another patrol
23 car was in front of us. But I was basically just
24 following the group because they had crossed the
25 street and kind of went running to the hallway of --

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1 this outside hallway of this apartment complex. So I
2 went and joined them.

3 Q So when you joined the group, were you
4 towards the rear of the group at that point?

5 A Yes. I was behind everyone, I would say.

6 Q At what point, if any, did you spot the
7 subject again?

8 A I could see him through this group of
9 officers in that same corridor hallway area of the
10 apartment complex, maybe like 20 feet in front of
11 the group.

12 Q And what was he doing at that time?

13 A He appeared to be holding a knife and he
14 was yelling kind of the same behavior I had seen at
15 the intersection. And he was facing the group of
16 officers and I was sort of behind them trying to look
17 past them at him, but that's what I observed.

18 Q When you say you thought that he appeared
19 to be holding a knife, could you tell which hand it
20 was in?

21 A Maybe the right hand. I'm not quite sure.

22 Q And to the best of your ability, could you
23 describe the knife?

24 A It appeared to be maybe six to seven inches
25 in length, I would say.

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1 Q Okay.

2 A It was kind of difficult to see just based
3 on where I was.

4 Q Okay. At any point, did you see him put
5 the knife away or discard the knife in any way?

6 A No. No, I don't think so.

7 Q So in your opinion during this entire
8 encounter in this corridor area, did you believe that
9 he was still in possession of the knife?

10 A I did.

11 Q Did you have your firearm out?

12 A Yes.

13 Q Do you recall if any other officers had
14 their firearms out?

15 A I'm not sure. I wasn't really looking,
16 seeing who had what out. So I just pulled out my
17 firearm. I'm not sure who else had theirs out.

18 Q Did you see if any other officers had any
19 other tools displayed, such as less-than-lethal
20 40-millimeter rounds, Tasers, anything like that?

21 A I think that -- I think Officer Bianchini
22 had less lethal out. I just kind of out of the
23 corner of my eye remember seeing him with that.
24 That's the only specific one I remember.

25 Q Okay. Did you and this group advance into

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1 this corridor towards the subject?

2 A We did, but it was -- the corridor was just
3 above these steps and that's pretty much where the
4 group was. It wasn't -- the group wasn't, like, a
5 ways into the corridor, if that makes sense.

6 Q I see. About how far into the corridor do
7 you think the group had gone?

8 A Maybe four to five feet, give or take. It
9 was a short distance.

10 Q And do you recall about how many people
11 were in that group with you?

12 A There were a lot of officers. I would say
13 maybe eight to ten.

14 Q And did any of them actually approach the
15 subject or did you all kind of stay together and stay
16 back a bit?

17 A No. We all kind of stayed together. I
18 kind of think of it -- there was, like, this line of
19 officers in the corridor from like wall to wall.

20 Q And about how far away do you think this
21 line of officers was from the subject?

22 A I would say 20 feet, give or take.

23 Q Okay. And was the subject facing the
24 officers?

25 A He was.

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1 Q Do you recall if he said anything?

2 A I think I heard him say or yell no several
3 times.

4 Q Was he yelling no in response to anything
5 or just yelling no?

6 A I think it was in response to us, 'cause we
7 were all trying to tell him, you know, to put his
8 hands up and to drop the knife. So I think that's
9 what he was saying no to, but I can't say for sure.

10 Q Did you have your firearm trained on him or
11 were -- how was your positioning of your firearm?

12 A I had it at the low ready, because I was
13 still slightly behind this group of officers and I
14 didn't obviously want to have them as a target.

15 Q In your crossfire?

16 A Exactly.

17 Q Could you explain to the grand jury what
18 low ready means.

19 A So I just have it out and pretty much like
20 this in front of me, not up on target, aimed at
21 anyone or anything like that.

22 Q And the reasoning for that is because these
23 officers were in front of you?

24 A Yes. I didn't want to accidentally hit
25 them, so --

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1 Q Okay. How long do you think these various
2 attempts to gain compliance of the subject, how long
3 do you think that lasted?

4 A I would say -- well, I mean, it lasted
5 from -- in my experience, from the time I started at
6 that intersection and the officers were continuously
7 trying to, you know, take him into custody and have
8 him surrender.

9 But in the corridor specifically, I would
10 say -- I mean, we stood there as a group giving him
11 commands for at least 10 to 15 seconds, give or take.

12 Q At any point, did the subject make any
13 movements towards the officers?

14 A He did.

15 Q And could you describe how he did that, in
16 what manner?

17 A So he took a step towards our group. And
18 in my observation, it appeared as though he was going
19 to keep moving towards the group. That was kind of
20 the step that he made. It was towards us, not away
21 from us or in any other direction.

22 Q And when he made that step towards you, did
23 any officer take any action?

24 A Yes. I heard gunfire and saw the suspect
25 get hit and fall to the ground.

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1 Q Did it appear that the gunfire was in
2 reaction to the movement towards the police officers
3 by the subject?

4 A I would say so.

5 Q Did it appear that, in your opinion, was
6 this subject stopped by the gunfire?

7 A Yes.

8 Q Okay. Did it appear that it wasn't by his
9 own volition that he had stopped moving forward?

10 A He had stopped moving forward because of
11 the gunfire.

12 Q Okay. And did that take him to the ground
13 or how did he react to being hit by the gunfire?

14 A I think that he fell to his knees first and
15 then kind of fell over all the way. That's how I
16 would describe it.

17 Q And after he had fallen to the ground, did
18 you or were you part of this group that ultimately
19 went up to render aid to the subject?

20 A At first, I started to walk with the group
21 towards him, but then I heard another officer say,
22 "Someone stay with Officer Doran." And so upon
23 hearing that, I stayed with him.

24 Q You stayed with Officer Doran?

25 A Yes.

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1 Q At that --

2 A (Indiscernible) to give aid to the suspect.

3 Q At that point when that request was made
4 and you did that, had you known that Officer Doran
5 was the one that fired the shots?

6 A I didn't know that. I assumed that because
7 he -- as an officer was saying to stay with him, I
8 saw him holster his gun, so I assumed that he was the
9 one that fired the shots.

10 Q And you yourself did not fire any shots?

11 A No.

12 Q Did you see anybody deploy any less lethal
13 options at -- at the corridor?

14 A I didn't see it.

15 Q Okay. After the shooting, did you see the
16 knife that you thought you had observed previously?

17 A I did not.

18 Q Did you look for it?

19 A No, I did not.

20 Q Okay. So you stayed with Officer Doran?

21 A Mm-hmm.

22 Q And then did you leave the corridor with
23 Officer Doran or did you stay in the corridor when
24 Officer Doran left?

25 A I stayed in the corridor because Officer

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1 Doran, after a few seconds, he started to walk back
2 out of the corridor and another officer went with him
3 and said he would be with him.

4 And then people started coming out of their
5 apartments and yelling and asking about what was
6 going on, to the point of, it started to become a
7 concern for me and another officer. So we knew we
8 needed to go and talk to everyone that was coming out
9 onto the scene.

10 Q And so when -- regarding that, with these
11 people coming out, the way this apartment's laid out,
12 all the front doors kind of open into this corridor;
13 is that correct?

14 A Yes.

15 Q Okay. So when people are coming out,
16 they're coming out into the corridor?

17 A Correct.

18 Q Okay. So what, as a police officer, are
19 you trying to do to maintain the scene and the
20 situation?

21 A I was pretty much doing everything I could.
22 People were extremely upset. It was to the point
23 where they were trying to walk past me to get to the
24 officers trying to apply aid to the suspect.

25 And I had to tell people not to come

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1 forward a certain point, because we were trying to
2 preserve the scene and also help him, too. And they
3 were just -- they -- they were interfering, I
4 would say.

5 Q And about how many people do you think were
6 doing that?

7 A At first, two or three came out and then it
8 turned into five to seven people, you know, yelling
9 at us and it was just kind of me and Officer Santos
10 trying to calm everybody down and let them know, you
11 know, we were doing this investigation and doing
12 everything we could at the moment.

13 Q Were you ultimately able to gain control of
14 the scene?

15 A We were. People, after a couple minutes,
16 were understanding and some went back in their
17 apartments. Others stayed where I asked them to stay
18 and they just stood there, so --

19 Q Okay. And you yourself did not provide any
20 medical aid to the subject, correct?

21 A I did not.

22 MR. OVERSTREET: Okay. Does anybody have
23 any questions for this officer?

24 A GRAND JUROR: Did it appear that he was
25 grabbing for his waist at all when you saw him or

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1 when he was holding that knife or --

2 THE WITNESS: I don't think so. I think he
3 had both his arms like near chest, waist area.

4 A GRAND JUROR: When the group of you were
5 in the hallway or corridor, was there any
6 communication among officers about what was going to
7 happen next or --

8 THE WITNESS: I wouldn't necessarily say
9 between us. We were just trying to do everything we
10 could to take him into custody. I was concerned and
11 the other officers may have been too, about him
12 possibly -- 'cause now we were in this apartment
13 complex.

14 I was worried he was going to go into one
15 of those units. A lot of people were there. So we
16 were just trying to gain control of him as quickly as
17 we could before things got worse. So it was more us
18 trying to communicate to him, give him commands and
19 take him into custody.

20 And it happened fairly quickly, so there
21 wasn't a whole lot of time either for us to really
22 take a step back and, like, talk to each other, if
23 that makes sense.

24 A GRAND JUROR: What was the backdrop or
25 back stop like from your vantage point as looking at

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1 the suspect?

2 THE WITNESS: So there were apartments on
3 the left side, so on the east side, there were doors.
4 The very back end of the corridor, I think it was a
5 wall, but I can't say for sure.

6 But I can say that there -- there was no
7 one else in that corridor except for the officers and
8 the suspect. There weren't any civilians or anything
9 like that.

10 A GRAND JUROR: Did you hear him saying
11 anything else other than no?

12 THE WITNESS: I don't remember any --
13 anything else he said.

14 MR. OVERSTREET: Anything else?

15 A GRAND JUROR: You said the knife was
16 fully extended out, right?

17 THE WITNESS: I believe so.

18 MR. OVERSTREET: Anything else?

19 A GRAND JUROR: Do you happen to remember
20 maybe what color or the appearance of the knife that
21 you think you saw?

22 THE WITNESS: I don't.

23 A GRAND JUROR: So you -- you mentioned you
24 think there must have been, like, 20 feet between the
25 Portland police officers and him?

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1 THE WITNESS: Yes, about that.

2 A GRAND JUROR: Right. (Indiscernible) in
3 this room, is there any way you can describe from
4 like from the window to me or kind of idea how far?

5 THE WITNESS: I would say a little farther
6 than that.

7 A GRAND JUROR: A little farther than that?

8 THE WITNESS: Yeah.

9 MR. OVERSTREET: And I'm sorry. Just to
10 clarify that point, are you talking about in the
11 corridor or --

12 A GRAND JUROR: The corridor, correct.
13 Yes.

14 THE WITNESS: Yeah, the corridor
15 (indiscernible) from this window to like the filing
16 cabinet right there, give or take.

17 MR. OVERSTREET: Any other questions?

18 Okay. That's it.

19 A GRAND JUROR: Thank you.

20 MR. OVERSTREET: This is Officer Ionesi.
21 Go to the lectern, raise your right hand. We'll
22 swear you in.

23 SAMUEL IONESI

24 Was thereupon called as a witness; and, having been
25 first duly sworn, was examined and testified as follows:

Examination of Samuel Ionesi

1 MR. OVERSTREET: Go ahead and take a seat.

2 Once you're seated, go ahead and state and
3 spell your full name, please.

4 THE WITNESS: Samuel Ionesi. First spelled
5 S-a-m-u-e-l, last name I-o-n-e-s-i.

6 EXAMINATION

7 BY MR. OVERSTREET:

8 Q Officer Ionesi, where are you employed?

9 A The Portland Police Bureau.

10 Q And how long have you been in law
11 enforcement?

12 A Just a little over two years.

13 Q And what did you do before you were in law
14 enforcement?

15 A I worked as an EMT for AMR and volunteered
16 as a fire fighter for Corbett.

17 Q And how long were you an EMT?

18 A Before I got hired?

19 Q Right, yeah. 'Cause you're currently still
20 on EMT, correct?

21 A Yes. Correct.

22 Q So how long overall have you been a
23 certified EMT?

24 A Probably close to two years. Just a little
25 over two or two-and-a-half, almost three years now.

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1 Q Okay. And could you just kind of briefly
2 describe to the grand jurors some of the training
3 that goes into becoming an EMT.

4 A Sure. So depending on what school you go
5 to, could be accelerated or -- or slow, but we are
6 taught a lot of trauma-based medical, how to handle
7 medical equipment for wound packing, stuff like that.

8 And then also we're taught the pathology,
9 what happens when the body goes into trauma, what
10 happens when it goes into shock, what systems start
11 shutting down. So you learn a little bit of
12 everything, just overall well rounded, basic medical
13 training.

14 Q Is it fair to say that the type of training
15 is really to focus on trying to keep somebody
16 alive --

17 A Yes.

18 Q -- while attempting to get them to a
19 hospital?

20 A Correct.

21 Q Okay. And as a police officer, you are
22 still a certified EMT, as you said, correct?

23 A Correct. Still maintain my license.

24 Q And you were working as a police officer on
25 July 30th of this year?

Examination of Samuel Ionesi

1 A Correct.

2 Q And what was your shift that day?

3 A I was working in the capacity of a traffic
4 trainee, still on probation. It requires to go two
5 weeks through the traffic division to get practice
6 doing DUIs. And that particular day, I had started
7 early due to a meeting early in the day. I was
8 heading to east to meet with my coach.

9 Q You were heading to east when you got the
10 call about this incident?

11 A I -- I didn't receive the call. I was on
12 my way to east, listening to the radio.

13 Q I see.

14 A Since I was in east, I stayed on east net
15 and then I heard this call developing and was in the
16 area and realized that shift change was happening,
17 might not have enough officers. So I was free and
18 went to help out.

19 Q Okay. And what was the nature of the call?

20 A From what I remember, there was some sort
21 of break-in that happened on 122 and Glisan in the
22 old Safeway parking lot area, that general area where
23 somebody was trying to get into a car and was
24 confronted by security officers and then they became
25 violent. I believe, pulled out a weapon or made some

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1 sort of threats, something along those lines.

2 Q Okay. And so when you responded, did you
3 respond to that Safeway location or did you go
4 somewhere else?

5 A Initially, I headed -- was heading that
6 direction. I was about at 102nd or 103rd, the next
7 major avenue up. And I diverted and he came down
8 eastbound on Glisan, heading that direction. Heard
9 updates that he started traveling southbound on 122.
10 And so I pulled up to Burnside and 122, thinking he
11 was somewhere in that general area.

12 Q And did you see him in that location?

13 A I did. So I placed my patrol car was an
14 undercover Dodge. I saw that there was cars that
15 were heading southbound on 122 and I saw this
16 individual on the sidewalk, waving a green hatchet
17 around.

18 And so I was concerned for those people's
19 safety, so I figured I'd block the traffic so that no
20 one would -- if he crossed into the street, no one
21 would be in his path.

22 Q And after you parked there to block
23 traffic, did you exit your vehicle or did you stay in
24 your vehicle and maintain a visual?

25 A I got out of my car and saw that we were

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1 decently close and it was probably just about 20 feet
2 away from me, so I retreated towards the intersection
3 where there were some more officers starting to
4 gather.

5 Q Okay. And could you see what he was doing
6 with the hatchet at that point?

7 A I just -- what I remember, he had it above
8 his head. I can't remember exactly which arm, but I
9 think it was his right arm. But he was making some
10 sort of movements with it, holding it up, just waving
11 it back and forth.

12 Q And what was his demeanor like, other than
13 holding this hatchet above his head and moving it
14 around?

15 A He was -- he was yelling at us. I can't
16 remember what he was yelling, because of the
17 adrenaline that was flowing, but I just -- he had an
18 aggressive stance to him and generally yelling
19 towards our direction and the hatchet pointed in our
20 direction.

21 Q And at this point, are you near that Max
22 stop near 122 or on 122nd and Burnside?

23 A Yes. Yes.

24 Q Okay. And did you notice -- you said there
25 were some people on the sidewalk. Did you notice

Examination of Samuel Ionesi

1 other people around the Max stop?

2 A It was pretty busy. If I remember my time,
3 it was somewhere in the afternoon, around, I think,
4 4:30, 5 o'clock. It was just a very busy part of
5 the day.

6 There was a lot of people out, a lot of
7 traffic. And I was just really concerned with him
8 being on the sidewalk, knowing what he had just
9 attempted and having all these people around him.

10 Q And when you joined this group of other
11 officers, what did you decide or did somebody give
12 you some sort of role in this pursuit?

13 A There was no role given. It was --
14 officers were coming up to the area. There was kind
15 of a busy scene. And I saw that there were officers
16 with their less lethal launchers or 40-millimeter
17 launchers and I saw the police officers with AR15s,
18 so we had our less lethal and our lethal covered.

19 And I saw a supervisor car and I know our
20 supervisor cars carry ballistic shields. So I
21 figured we're in the middle of intersection. This is
22 a moving scenario. Might need some cover, depending
23 on what weapons he has. So I decided to go and grab
24 the shield from the back of the supervisor car.

25 Q Okay. And so -- and you were able to do

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1 that?

2 A I was.

3 Q And so you had now -- so you're not armed
4 with any sort of weapons or anything, but you have a
5 shield?

6 A Both my hands were occupied carrying the
7 shield.

8 Q Okay. And once you have the shield and you
9 rejoin the group, about where were you at that time?

10 A I remember being -- holding the shield just
11 south of the tracks, so the tracks cut across on
12 Burnside on 122. And I -- I remember vaguely being
13 just south of those, those tracks when I saw the
14 first deployment of the less lethal 40-millimeter
15 less lethal.

16 Q And you said the first one. Was there more
17 than one?

18 A There was two.

19 Q Did one or either of them have any effect
20 on the subject?

21 A I remember him reacting to being hit with
22 the round. I remember the flinch right after the
23 pop, so I'm guessing that he was hit.

24 Q And did he maintain possession of the
25 hatchet at that point?

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1 A He had dropped it. Again, with the
2 adrenaline flowing, I can't remember exactly if he
3 had dropped it before the application of less -- the
4 40 millimeter launcher, in between the first or the
5 second or after the second. I can't remember. But I
6 do remember him eventually dropping the hatchet
7 somewhere on the street or sidewalk.

8 Q After he dropped the hatchet, where did
9 he go?

10 A He took off running southbound on the
11 sidewalk, just west of 122.

12 Q And at this point, you have the shields
13 still?

14 A Yes.

15 Q And did you get -- did you pursue him as
16 well with the shield?

17 A I was a little slower. The shield's a
18 little heavy, but I saw the general area the group
19 was running to. And so I took off, because one of
20 the radio updates, I remember him having not just the
21 hatchet, but other weapons as well, so he could
22 possibly have something else with him. And since all
23 our cars were stuck on the street, probably could use
24 cover depending on where we ended up.

25 Q And out of all of the calls and updates

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1 that were coming over the radio, besides a hatchet,
2 do you recall any other weapons being described that
3 he could potentially have?

4 A I vaguely remember some sort of knife and
5 possibly a machete-type weapon or just some sort of
6 knife. That's what I remember through -- through all
7 this.

8 Q And up to this point, up to the point that
9 he runs southbound on 122nd, besides the hatchet, did
10 you see any other weapons?

11 A I didn't.

12 Q And so he takes off running. You're
13 pursuing, but you're much slower than the rest of the
14 group?

15 A Correct.

16 Q Okay. So do you eventually catch up to the
17 group?

18 A I do, yes.

19 Q And where did you catch up to them?

20 A It was an apartment complex in the -- what
21 could be described as the courtyard or breezeway or
22 something like that. I can't remember the street
23 exactly.

24 I just remember it was just off of 122. We
25 were at the -- right where the steps go into this

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1 area. We were just right around that breezeway.

2 Q Okay. And where were you in the group?

3 Were you towards the front of the group, towards the
4 back?

5 A If we were facing southbound, I would have
6 been just to the left of the group. So there was
7 just -- there was the building, the wall and the
8 wall. We were in the middle, kind of on the walkway.
9 And there's two pillars.

10 And so I kind of inched my way in front of
11 or just to the left of the group, positioning with
12 the shield just in case somebody needed to take cover
13 behind it, because there was essentially no cover at
14 all on that walkway.

15 Q And could you see the subject --

16 A I could.

17 Q -- in that area?

18 A Mm-hmm.

19 Q All right. Was he ahead of you?

20 A He was ahead of us maybe, you know, 20 --
21 20ish feet. It's hard -- hard to say, but he wasn't
22 too far ahead.

23 Q And was he moving away from you or towards
24 you or was he stationary?

25 A I just remember him being stationary when I

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1 was there.

2 Q Was he facing towards you?

3 A He was.

4 Q Do you recall at the time of the first
5 encounter there in that breezeway, do you recall him
6 saying anything?

7 A Again, with adrenaline going, the officers
8 were giving commands. I'm not sure if he said
9 anything. I do not recall hearing anything. At that
10 point, I had locked in both arms to the shield and
11 brought it up, you know, ready just in case we needed
12 cover.

13 So my focus was going back and forth
14 between him and the officers, making sure I know
15 where my position is relative to his position. So I
16 was mostly just focused on my job of being ready for
17 cover if needed.

18 Q And while doing that, is it fair to say
19 that your attention is not solely on the subject?

20 A Correct. On our shield, we have a little
21 viewing port, a little chunk of ballistic glass. And
22 that was my view of him. I was looking through that,
23 checking, make sure my officers are okay, looking
24 through the view port.

25 Q And so is it fair to say that you're

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1 relying on the other officers to engage --

2 A Correct.

3 Q -- with this individual if necessary?

4 A Correct. I was doing my job and I had
5 trust in them that they would take care of me.

6 Q Did the commands continue while you were in
7 that corridor?

8 A I'm sure they did. I'm not sure what --
9 what was being said. I can't remember what was being
10 said.

11 Q Do you recall hearing any shots being
12 fired?

13 A I do remember hearing shots, but it took
14 me -- it took me a little bit to finally realize, for
15 it to register in my brain that, okay, I think those
16 were shots.

17 When I saw him react to the shots, that's
18 when I realized, okay, this wasn't just some random
19 popping noises. The officer, I think, close to where
20 I was, that had actually shot him.

21 Q And when you say close to you, do you mean
22 ahead of you, to the side of you, which side?

23 A I believe he was at -- just at an angle to
24 my right, from what I remember. He was close by me.
25 Not more than five feet away, probably, from where I

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1 was standing.

2 Q At any time did you see the subject display
3 any sort of weapon while you were in the corridor?

4 A With my attention split between the two, I
5 didn't really focus on his hands.

6 Q Okay. And did you see him make any advance
7 movements towards the officers?

8 A I didn't. Again, my attention was split.
9 So I don't -- I don't recall.

10 Q After the shots were fired, what did
11 you do?

12 A After the shots were fired, it took us just
13 a few seconds to formulate a plan to go up on him and
14 secure -- secure the subject. And so I took point on
15 that. Everyone stacked up behind me.

16 We approached and I laid my shield down and
17 we took him into custody and I put -- took a pair of
18 my handcuffs and those were the cuffs that were used
19 to -- to handcuff him.

20 Q So you placed handcuffs on him?

21 A I assisted. It was me and another officer.

22 Q Okay. Once handcuffs were on, what did
23 you do?

24 A Once handcuffs were on, I took out my
25 trauma shears and started switching to my medical

Examination of Samuel Ionesi

1 training and in a trauma situation, you need a --
2 especially if someone's shot, you strip pretty much
3 all the clothes off to make sure we don't miss any --
4 any wounds. So that's what I did. I just started
5 cutting away his clothes.

6 Q And so these trauma shears, they're
7 something you carry on you?

8 A I have them on me right now.

9 Q And you use those to start cutting off
10 clothes?

11 A Correct.

12 Q Did you cut any other items off of his
13 person?

14 A He had some sort of what I remember to be
15 some type of belt on, but it was like a
16 weight-lifting belt. I just remember it was really
17 thick and hard to cut through.

18 Q Okay. A thick leather belt --

19 A Yeah.

20 Q -- around his waist?

21 A Mm-hmm.

22 Q Okay.

23 A And then he had a backpack strap that I had
24 to cut through.

25 Q And you were able to cut through all of

Examination of Samuel Ionesi

1 that?

2 A Yes.

3 Q Okay. Once you were able to cut away all
4 the clothing, could you identify where the subject
5 had been hit?

6 A I -- yes. Now being it so far from there,
7 I just remember a shot, I believe in his shoulder. I
8 can't remember the -- how many times he was hit, but
9 he was hit multiple times.

10 Q And once you identified those, what is your
11 procedure and how do you attempt to provide medical
12 care to him?

13 A It depends where he was hit. If he was hit
14 in his lower thoracic region then, you could
15 probably -- you could do wound packing. If it's
16 up -- upper in the chest, respiratory area, we
17 usually put on a chest seal.

18 Chest seals work really great wherever you
19 use them. And since we had plenty of our IFAT kits
20 with us, I just used chest seals to patch up all the
21 holes that I saw.

22 Q Can you first describe what an IFAT kit is
23 and where did you get it from?

24 A So all of our patrol cars are equipped with
25 a IFAT kit, which is a trauma medical kit that has

Examination of Samuel Ionesi

1 combat gauze, our chest seals, extra tourniquets,
2 trauma shears, gauze, Israeli bandages, which is
3 another form of a trauma bandage, and everything we
4 would need to help save somebody's life in a
5 traumatic situation, whether they were shot, stabbed.

6 Q And so were those on scene quickly?

7 A They were. The officer vehicles were able
8 to pull up and I believe we had two IFAT kits.
9 Within a few minutes of the incident happening, we
10 started rendering medical aid.

11 Q And these chest -- I'm sorry, what did you
12 call them?

13 A They're called Hyfin chest seals.

14 Q Chest seals. So you applied some of those?

15 A I believe we applied at least three or
16 four.

17 Q And what else did you do? What other kind
18 of care did you render?

19 A Saw his face starting to go white and we
20 realized he's losing his pulse. So after we got most
21 of what we could see on the -- where he was shot,
22 patched those up, started doing CPR.

23 I can't remember if I started doing it
24 first or if -- I think I started CPR first and then I
25 had another officer take over. And then we kept on

Examination of Samuel Ionesi

1 looking for wound entrances or exits during CPR.

2 Q And did you identify any other wounds?

3 A I believe I found another one on his
4 shoulder. I also put in two, what are called NPAs,
5 nasal pharyngeal airways. And usually if someone's
6 airway's compromised, it's kind of like a -- it's a
7 rubber tube a few inches in length and it goes in
8 through the nose straight into the airway.

9 So if there's any sort of obstruction in
10 the mouth, you can bypass that with that and you
11 still have an open airway in the patient.

12 Q So at that point, do you think you patched
13 every place that needed to be patched?

14 A Correct.

15 Q And you've inserted this nasal tube to open
16 his airway?

17 A Mm-hmm.

18 Q And then CPR was continued?

19 A Correct.

20 Q And then you were relieved at some point?

21 A Fire arrived on scene and I continued to
22 help with the medical side and assisting fire. And I
23 believe they put on two of the AD patches to -- to
24 check his heart, heart rate.

25 I was asking for a bag valve mask, which is

Examination of Samuel Ionesi

1 to give better air to him, but then they -- they
2 called it. They couldn't find a pulse. That's when
3 I stopped.

4 Q At any point, did you or other officers
5 apply any tourniquets?

6 A We did apply tourniquets. I remember on
7 his left arm, he had been shot there and there was a
8 bullet that had grazed his forearm, which peeled away
9 a lot of the flesh, so we weren't sure the extent of
10 the damage. And I remember applying a tourniquet on
11 his bicep.

12 Q I just want to go back a little bit to
13 before when you sort of first came in contact with
14 him. And I apologize for jumping around here. But
15 you said there was a lot of people nearby.

16 How was he acting that caused you --
17 specifically how was he acting to cause you concern
18 that he may actually strike a civilian?

19 A So if he had been confrontational with
20 security -- I wasn't there for that event -- just
21 from the radio updates, I already knew he had an
22 aggressive, confrontational behavior. And as police
23 arrived, he had plenty of opportunity to change his
24 behavior.

25 We did our best to deescalate and part of

Examination of Samuel Ionesi

1 de-escalation is having multiple officers on scene
2 giving him the space he needs, giving him commands
3 and time to comply with those commands.

4 And it was concerning to me that we
5 provided him with space, plenty of time to -- to
6 comply with what we were asking him to do and his
7 behavior continued with people still around him.

8 So I wasn't sure why -- why he wasn't
9 listening to that. He could have easily grabbed
10 someone off the street and taken them as a hostage or
11 he could have ran a totally different way. He had
12 plenty of options.

13 Q At any point before the shooting occurred,
14 did you believe that this could possibly be a
15 situation that could escalate into where a shooting
16 could occur?

17 A It could have, because he had a hatchet in
18 his hand. We were in the middle of an intersection.
19 It was hard for us to find cover 'cause he kept on
20 moving. So, at any point, he could have charged at
21 an officer. He could have charged at somebody on the
22 side -- well, not even have to charge.

23 He could have just swung on somebody at the
24 sidewalk. And it was a rapidly evolving situation
25 with people on the sidewalk. If it did turn into a

Examination of Samuel Ionesi

1 shooting at that point, it would have been really
2 dangerous because there was people everywhere.

3 He got -- it was in the back of my mind
4 that this -- this could -- may very well turn into
5 some sort of use of deadly force.

6 Q And to avoid that as a police officer,
7 you're trained in de-escalation tactics?

8 A Correct.

9 Q Did you yourself attempt any de-escalation
10 tactics with the individual?

11 A I never communicated with him. One thing
12 we try to avoid in a tense situation is multiple
13 officers yelling out commands, 'cause it could
14 confuse somebody. So for me, my mission was to grab
15 that shield, to provide that cover and be there for
16 the officers, whoever was giving commands or whoever
17 is taking those roles.

18 Those roles were taken, so in my
19 deescalation technique, one of the things is putting
20 a barrier between yourself and the individual. And
21 it was hard since he was moving to find a car or
22 something like that. So my barrier was the shield.
23 Placing some sort of barrier between me -- me
24 and him.

25 Q And as a group of officers, did you also

Examination of Samuel Ionesi

1 provide, as a deescalation tactic, distance between
2 the group and the individual?

3 A We did. Another way to deescalate is using
4 a force option or a lesser force option, like the
5 40-millimeter. And if you apply -- we use the
6 40-millimeter in hopes of that being effective and
7 not having to step up to the next level and -- and
8 giving him every chance to comply after the force was
9 applied.

10 MR. OVERSTREET: Does anybody have any
11 questions?

12 MR. HANNON: I've got a couple of notes,
13 but go ahead if you have questions.

14 A GRAND JUROR: What is the next step above
15 the LTL?

16 THE WITNESS: Above 40 -- the less lethal.

17 A GRAND JUROR: Yeah.

18 THE WITNESS: After the less lethal, you're
19 starting to look at deadly force options.

20 A GRAND JUROR: So if a Taser was going to
21 be used, it would be used before or after the -- the
22 40 millimeter?

23 THE WITNESS: If you have the distance to
24 apply -- use a taser, taser would be preferred, but
25 our effective range on a taser is less than 15 feet,

Examination of Samuel Ionesi

1 which puts you dangerously close to -- to him and
2 could actually escalate the situation by closing that
3 distance.

4 A GRAND JUROR: Thank you.

5 A GRAND JUROR: And the only weapon you saw
6 was the hatchet; is that right?

7 THE WITNESS: That I remember seeing on
8 that particular day. All I remember was the
9 specifically green handled hatchet.

10 A GRAND JUROR: Thank you.

11 A GRAND JUROR: And you said you arrived in
12 an undercover Dodge?

13 THE WITNESS: Correct.

14 A GRAND JUROR: Were you in uniform or --

15 THE WITNESS: I was, yeah.

16 A GRAND JUROR: Okay.

17 MR. OVERSTREET: Do you have another
18 question?

19 A GRAND JUROR: Yes.

20 How many officers would you say were giving
21 verbal commands to the subject in the hallway of the
22 apartment complex?

23 THE WITNESS: That part, I -- there's so
24 much adrenaline that was flowing at that point, I
25 just -- I had to focus on one thing and my one thing

Examination of Samuel Ionesi

1 was that -- holding the shield and making sure that
2 everyone's safe.

3 A GRAND JUROR: Could you tell if it was
4 more than one officer?

5 THE WITNESS: I couldn't say for sure. I
6 just remember hearing voices or commands being given.
7 Not sure as to the specifics of those commands.

8 A GRAND JUROR: Were the commands at least
9 consistent from the time you arrive on scene to the
10 time of the shooting?

11 THE WITNESS: Yes.

12 A GRAND JUROR: Did they seem to be
13 consistent commands, meaning stop, put it down, get
14 on the ground, those types of thing?

15 THE WITNESS: I remember hearing words,
16 maybe not exactly what was said as a whole sentence,
17 but key words of earlier on incident, you know,
18 put -- put the weapon down, put the hatchet down,
19 something along that line.

20 And then in the hallway, things specific to
21 that, you know, stop, you know, commands like that.
22 But I can't remember any sentences or --

23 A GRAND JUROR: Okay.

24 MR. HANNON: I have a question. For the
25 record, Dave Hannon.

Examination of Samuel Ionesi

1 BY MR. HANNON:

2 Q How heavy is that shield?

3 A I'm not sure, but usually when you deploy
4 the shield, you're carrying it with two hands.

5 Q Okay. And it's -- it's not -- watching it,
6 from what I've seen of it, it gives you some
7 protection, but it doesn't protect all of the
8 officers at one time, given how many were there?

9 A No. Usually when you deploy a shield, you
10 have a team of -- including the shield operator, four
11 people stacked behind the shield, which gives you
12 protection from any -- anything incoming.

13 Q In this situation, you had a limited
14 perspective given that you had to kind of watch both
15 your attention to the shield and the perspective
16 through the shield and that was kind of your limited
17 perspective, but the shield didn't protect from
18 anything behind him, as there are no officers at that
19 portion; is that right?

20 A Behind the --

21 Q Suspect?

22 A There was no one behind the suspect.

23 Q And there's no shielding to protect the
24 residents or their apartment complexes on the left
25 and right of that corridor?

Examination of Samuel Ionesi

1 A Correct.

2 Q And given if it requires two hands to carry
3 it, and your attention is diverted to just the
4 shield, if someone was motivated or able to move, can
5 they out flank your shield if you don't have proper
6 cover to protect you as you're trying to hold that
7 shield?

8 A It could. It's not a one-man job. You
9 need a team behind you.

10 Q So they could -- someone could dart to the
11 left or dart to the right of that shield and your
12 options may be limited given your holding it with two
13 hands?

14 A Correct. In that -- in a situation like
15 this, it could have been deployed as a high-risk
16 custody, too, where we would have -- if he would have
17 complied and proned out, we would have still
18 approached with a shield just in case.

19 MR. HANNON: Thank you.

20 A GRAND JUROR: Could ask you, you were the
21 one that you placed the handcuffs on him?

22 THE WITNESS: Correct.

23 A GRAND JUROR: And did he resist it at all
24 or can you --

25 THE WITNESS: No.

Examination of Samuel Ionesi

1 A GRAND JUROR: He was unconscious, you
2 think, at that time?

3 THE WITNESS: Yes.

4 MR. OVERSTREET: Any other questions?

5 No? Okay. I think that's it.

6 A GRAND JUROR: Thank you.

7 * * *

8 (Conclusion of Grand Jury Proceedings,

9 Volume 1, 10-9-19 at 5:05 p.m.)

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REPORTER'S CERTIFICATE

I certify, by signing below, that the foregoing is a correct transcript, of the audio record in the above-entitled cause, as recorded on CD and transcribed to the best of my ability and in accordance to the quality of the audio CD.



KATIE BRADFORD, CSR 90-0148
Court Reporter
(503) 267-5112

1 IN THE CIRCUIT COURT OF THE STATE OF OREGON
2 FOR THE COUNTY OF MULTNOMAH

3
4
5
6 **GRAND JURY No. 3 PROCEEDINGS**

7 **Case No. 54**

8 Conducted by:

9 Dave Hannon, Deputy District Attorney

10 Shawn Overstreet, Deputy District Attorney

11
12 - - -

13 October 10, 2019

14 - - -

15 DA Case No. 2407606

16 Portland Police Bureau Case No. 19-258996

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22 Katie Bradford, CSR 90-0148
 Court Reporter
23 Portland, Oregon
 (503) 267-5112

24
25 Proceedings recorded on digital audio recording;
 transcript provided by Certified Shorthand Reporter.

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1 Re: Officer Gary Rick Doran, OIS
2 Date of Incident: 7-30-19
3 Deceased: Lane Christopher Martin
4 Portland Police Bureau Case No. 19-258996
5 DA Case No. 2407606
6 Grand Jury No. 3, Case No. 54

7 * * *

8 (Volume 2, Thursday, October 10, 2019, 10:18 a.m.)

9 **P R O C E E D I N G S**

10 (Whereupon, the following proceedings were
11 held before Grand Jury No. 3:)

12 MR. OVERSTREET: Okay. We're back on the
13 record. This is Grand Jury 3, Case No. 54. We are
14 proceeding with taking testimony from police officers
15 this morning.

16 Appearing on behalf of the State, Shawn
17 Overstreet, O-v-e-r-s-t-r-e-e-t, Bar No. 114859. And
18 also present in the room is Dave Hannon. If he wants
19 to put himself on the record again this morning --

20 MR. HANNON: Sure. Dave Hannon,
21 H-a-n-n-o-n, Bar No. 045666.

22 MR. OVERSTREET: Okay. I'll start with our
23 first officer this morning.

24 Good morning. Stand by the black chair and
25 raise your right hand.

Examination of Nikolay Hristov

1 **NIKOLAY HRISTOV**

2 Was thereupon called as a witness; and, having been
3 first duly sworn, was examined and testified as follows:

4 MR. OVERSTREET: Okay. Go ahead and take
5 a seat.

6 **EXAMINATION**

7 BY MR. OVERSTREET:

8 Q And once you're seated, go ahead and state
9 and spell your full name, please.

10 A My name is Nikolay, spelled N-i-k-o-l-a-y,
11 H-r-i-s-t-o-v.

12 Q And where are you employed, sir?

13 A I'm a Portland police officer, East
14 Precinct. I've been an officer for a little bit over
15 seven years.

16 Q Seven years? Is that -- okay. And were
17 you working as a police officer on July 30th of 2019?

18 A Yes, I was.

19 Q Okay. And when did you begin your shift
20 that day?

21 A We started our shift at 4 o'clock. I
22 remember I was at roll call.

23 Q Okay. In the morning or afternoon?

24 A Afternoon.

25 Q Okay. And you were just beginning your

Examination of Nikolay Hristov

1 shift when you received this call about a disturbance
2 at 122 and Glisan?

3 A Yeah, so I got out of roll call. I was
4 about to log into the computer, which is a normal
5 day. And I wasn't even logged in yet when I heard a
6 call come out. And they were looking for an ECIT
7 officer --

8 Q Okay. And --

9 A -- which --

10 Q -- are you an ECIT officer?

11 A Yes, I was.

12 Q And how long --

13 A And --

14 Q -- have you been an ECIT officer?

15 A I think about two years.

16 Q Okay. And so when you heard this call for
17 an ECIT officer, did you intend to respond as an
18 ECIT officer?

19 A Yeah, they -- they were looking for
20 someone. There wasn't an ECIT officer available in
21 the East Precinct, so they were trying to get someone
22 from another precinct, which would've been too far
23 away. And I was like, "Hey, I'm about to log in.
24 I'll -- I'll just go out and help."

25 Q Okay. And you responded to the area.

Examination of Nikolay Hristov

1 Where did you go?

2 A I -- I went to 122nd Avenue and Burnside.

3 Q Okay. And when you arrived at 122 and
4 Burnside, was the group of officers and the subject,
5 were they already near Burnside at that point?

6 A Yeah, they were.

7 Q Okay. And did you observe the
8 subject yourself?

9 A I did.

10 Q Okay. And what was he doing when you first
11 observed him?

12 A So when I first stopped there and observed
13 him, he was kind of starting to cross the street
14 from -- he was going southbound on 122nd and he
15 crossed Burnside and he was waving a hatchet.

16 Q Okay. And as an ECIT officer, did you try
17 to make contact with him?

18 A I did. I attempted to contact him.

19 Q And how did you do that?

20 A Well, I kept my distance because of the
21 hatchet and I was afraid that he might, like, throw
22 it at me and, you know, hurt me, so I just kind of
23 kept my distance like, "Hello," you know, just try to
24 make verbal contact. But it wasn't very successful
25 and I wasn't able to communicate with him.

Examination of Nikolay Hristov

1 Q Did he respond to you at all verbally?

2 A No. He kind of looked at me and then I
3 remember he was, like, speaking nonsensical things
4 that -- you know, I just don't even remember what he
5 was saying, just kind of yelling stuff out that
6 was -- I don't --

7 Q Okay.

8 A -- unintelligible.

9 Q When you were trying to make contact with
10 him verbally, did you have any weapons displayed at
11 that point?

12 A I did not. I was just trying to deescalate
13 the situation.

14 Q Okay. At any time, did you access any
15 weapons that were available to you?

16 A No. And another reason for that is there
17 were people behind him, so I didn't want to, like,
18 point my gun at him and have people in the backstop
19 as well, so --

20 Q Okay. Were there other officers around
21 you that were displaying less-than-lethal and
22 lethal force?

23 A Yeah. There were officers with less-lethal
24 weapons around.

25 Q Okay. At any time, did you tell him to

Examination of Nikolay Hristov

1 drop the axe yourself or the hatchet?

2 A I did, yeah.

3 Q About how many times do you think you asked
4 him to --

5 A I did several times --

6 Q -- to drop it?

7 A -- and then I heard other officers, you
8 know, asking the same thing.

9 Q Could you describe his demeanor other than
10 swinging around a hatchet? Could you describe his
11 body language?

12 A Yeah. Erratic, fidgety, just kind of all
13 over the place, couldn't sit still.

14 Q As -- as an ECIT officer and somebody who
15 deals with people that are in a mental health crisis
16 in that position, in your opinion, did it appear that
17 he was having a mental health crisis or that he was
18 under the influence at that time?

19 A In my -- in my opinion, he was under the
20 influence of some sort of drug.

21 Q Okay. Did you believe that that's what led
22 to you being unable to engage with him?

23 A Yeah.

24 Q How long did you attempt deescalation
25 tactics?

Examination of Nikolay Hristov

1 A It -- it was super quick. He -- I mean, I
2 tried -- we had, like, a brief eye contact, which was
3 the only way I was able to, like, contact him.
4 And -- and then it just evolved after that. He
5 quickly started running, you know, southbound on
6 122nd Avenue, so I -- it was super brief.

7 Q After he took off running, did you lose
8 sight of him yourself?

9 A I did.

10 Q Okay. And did you come into contact with
11 Officer Bianca around that time?

12 A Yes.

13 Q Okay. What did you and Officer Bianca
14 decide to do at that time?

15 A We decided to grab a patrol car and we saw
16 that there was a group of officers following him
17 southbound on 122nd Avenue, so we were going to go
18 assist them and try to make contact with the subject
19 again and maybe use the car as cover.

20 Q And while you were doing that, did you hear
21 any updates over the radio regarding whether the
22 subject was still armed or not?

23 A I heard that he dropped the axe or the
24 hatchet and he still had a knife.

25 Q You heard over the radio that he still had

Examination of Nikolay Hristov

1 a knife?

2 A Yes.

3 Q Now, to you, did that sound as if somebody
4 was saying he still had a knife or whether they
5 suspected that he still had a knife? Could you tell
6 the difference?

7 A To me, it sounded like he had a knife.

8 Q Okay. Where did you drive your vehicle to?

9 A Just southbound on 122nd, just following
10 the group of officers that were running after the
11 subject. And --

12 Q And where did you end up stopping
13 your vehicle?

14 A We ended up stopping at an apartment
15 complex -- or near an apartment complex off of
16 Ash Street.

17 Q Okay. And, ultimately, where your vehicle
18 had stopped, was that close to where the shooting
19 occurred?

20 A Yes.

21 Q Okay. Did you exit your vehicle at
22 that location?

23 A I did.

24 Q And where did you go?

25 A I went towards the group of officers and

Examination of Nikolay Hristov

1 attempted to contact the person.

2 Q Okay. Did you enter into this corridor
3 with a group of officers?

4 A I -- I did after they did.

5 Q Okay. So were you sort of behind the
6 main group?

7 A Yes, I was.

8 Q Okay. At that time, were you displaying
9 any weapons?

10 A No.

11 Q Okay. What -- what did you believe your
12 role was at that point?

13 A I was just going to continue to be a -- an
14 ECIT officer and try to deescalate the situation
15 and just --

16 Q Okay.

17 A -- just help out in any way that I could.

18 Q Did you have another chance to try to
19 engage him?

20 A No, I didn't.

21 Q Why is that?

22 A Because he was shot and after that, I just
23 assisted with taking him into custody and CPR and
24 providing aid.

25 Q About how much time do you think there

Examination of Nikolay Hristov

1 was -- from the time that you got out of your vehicle
2 to walk up the corridor in an attempt to contact him,
3 about how much time do you think passed before he was
4 shot?

5 A Less than a minute.

6 Q Okay.

7 A And as I was walking up, the -- the
8 shooting happened.

9 Q So you weren't even up to the location
10 where the main officers were, you were still
11 arriving?

12 A Yeah.

13 Q Is that --

14 A That's correct.

15 Q -- a fair statement?

16 A Yeah.

17 Q Okay. Did you see who was shooting?

18 A Not 100 percent sure who shot, but I saw it
19 was someone that was to the left of me.

20 Q Did you see Officer Doran there?

21 A Yes.

22 Q And what position was he in when the -- at
23 the time of the shooting?

24 A Just kind of lower, you know, crouching
25 kind of position.

Examination of Nikolay Hristov

1 Q Okay. But at the time, you weren't certain
2 that he was the one who fired the shots?

3 A No. But I remember the shell casings
4 flying from left to right, so I knew that they came
5 from my left.

6 Q Okay. Did you assist with any of the
7 medical care of the -- of the subject?

8 A Yeah, I did.

9 Q And what was your role in the medical care?

10 A Just -- I kind of -- I remember cutting his
11 clothes off so that we could see where all the wounds
12 are -- or backpack -- I cut off the straps from the
13 backpack and I kind of held his head and held his
14 airway open, so that -- you know, just part of CPR
15 training.

16 Q Did you also apply a tourniquet to one of
17 his arms?

18 A Oh, yeah, I did.

19 Q You did that?

20 A Yeah.

21 Q Okay. And did you stay on scene until
22 relieved by fire?

23 A Yes.

24 Q Okay. And I -- I think we've covered this
25 pretty clearly, but at no time you ever had a weapon

Examination of Nikolay Hristov

1 out and did not use a weapon; is that correct?

2 A No, I didn't.

3 MR. OVERSTREET: Okay. Does anybody have
4 any questions for Officer Hristov?

5 A GRAND JUROR: Yes. When you were logging
6 in, were you in your patrol car?

7 THE WITNESS: I was in the patrol car and I
8 wasn't able to log in.

9 A GRAND JUROR: But I -- as opposed to your
10 desk at the precinct?

11 THE WITNESS: No --

12 A GRAND JUROR: Yeah.

13 THE WITNESS: -- in the car.

14 A GRAND JUROR: Okay.

15 THE WITNESS: Radio was on. I heard
16 everything happening and I -- I was like, I don't
17 have time to log in. It sounds pretty rapid and
18 intense, so I'm just going to go.

19 A GRAND JUROR: While you were assisting
20 with CPR and that -- all of that, did you happen to
21 see any other weapons (indiscernible)?

22 THE WITNESS: No, I wasn't focusing on
23 that.

24 A GRAND JUROR: Okay.

25 A GRAND JUROR: You never saw the knife --

Examination of Nikolay Hristov

1 THE WITNESS: No.

2 A GRAND JUROR: -- open? Okay.

3 BY MR. OVERSTREET:

4 Q You were -- since you were towards the back
5 of the group after the shooting, were other officers
6 able to get to him more quickly than you were after
7 the shooting?

8 A So I think Officer Ionesi got there first
9 'cause he had the shield.

10 Q Okay.

11 A And then me and Officer Leonard just kind
12 of handcuffed the guy. And I just remember focusing
13 on his hand. I was like, I got to get this guy into
14 custody real quick. And --

15 Q Okay.

16 A -- so that's all I remember. It was -- it
17 happened so fast, you know.

18 MR. OVERSTREET: Okay.

19 BY MR. HANNON:

20 Q If -- if I could just follow up on that,
21 you -- you felt like -- even though he was obviously
22 shot and down on the ground, you felt the need to go
23 for his hands real fast.

24 A Yeah.

25 Q Is that -- is that part of your training?

Examination of Nikolay Hristov

1 A It is.

2 Q And why -- why -- despite being shot and
3 going down, why did you feel the need to go for his
4 hands so quickly?

5 A Because the hands is what we're trained
6 to control. They're able to access weapons. People
7 play -- like, you know, and sometimes they'll just
8 sit there and then maybe reach for a weapon near
9 their waistband or anything like that.

10 So I just know that, like, if we can
11 control the hands as fast as possible, then we
12 control the situation and --

13 Q And --

14 A -- nobody's going to (indiscernible).

15 Q So you didn't know yet what he had or
16 didn't have --

17 A Yeah.

18 Q -- going towards him?

19 A I didn't, no.

20 Q So there was still -- in your mind, were
21 there still some risks with him?

22 A Yeah. Absolutely, especially after the
23 stuff I'd observed before.

24 BY MR. OVERSTREET:

25 Q Even after the shooting, was the last

Examination of Nikolay Hristov

1 update that you had regarding weapons that he still
2 had a knife?

3 A Yeah. I didn't know if he still had a
4 knife or not --

5 Q Okay.

6 A -- so -- but that was the last update I
7 heard on the radio.

8 MR. OVERSTREET: Question --

9 A GRAND JUROR: Yes.

10 MR. OVERSTREET: -- from a grand juror?

11 A GRAND JUROR: When you made eye contact
12 with him, were you leading -- were you in front of
13 him or were you behind him?

14 THE WITNESS: I was --

15 A GRAND JUROR: Like, his -- his --

16 THE WITNESS: We were --

17 A GRAND JUROR: -- his (indiscernible) --

18 THE WITNESS: -- facing one another. I was
19 in the middle of the intersection of 122nd and
20 Burnside and he was just crossing the street --

21 A GRAND JUROR: Okay.

22 THE WITNESS: -- where the MAX stop was.

23 A GRAND JUROR: Okay. Thank you.

24 A GRAND JUROR: Before he got shot, were
25 you able to see if he charged or reached for

Examination of Nikolay Hristov

1 something (indiscernible)?

2 THE WITNESS: No.

3 A GRAND JUROR: Okay.

4 BY MR. OVERSTREET:

5 Q Are you saying he did not or you were not
6 able to see?

7 A I was not able to see.

8 Q Okay.

9 A GRAND JUROR: Thank you.

10 MR. OVERSTREET: Any other questions?

11 A GRAND JUROR: Oh, I just thought of one
12 more. When you tried to engage with him, were
13 there -- were there a lot of other people shouting at
14 him at the same time?

15 THE WITNESS: At that exact moment, no.

16 A GRAND JUROR: Okay.

17 THE WITNESS: And I think that's why he
18 was -- we were able to make eye contact.

19 A GRAND JUROR: Yeah. No, that's great.
20 Thanks.

21 BY MR. OVERSTREET:

22 Q And although you made eye contact, was he
23 following your directives? And you have to answer
24 audibly for the recording.

25 A No.

Examination of Daniel Leonard

1 MR. OVERSTREET: Okay. Thank you.

2 Anything else?

3 Okay. Thank you, Officer.

4 Right here. Raise your right hand. We'll
5 get you sworn in.

6 **DANIEL LEONARD**

7 Was thereupon called as a witness; and, having been
8 first duly sworn, was examined and testified as follows:

9 A GRAND JUROR: Thank you.

10 MR. OVERSTREET: Okay. Go ahead and take
11 a seat.

12 **EXAMINATION**

13 BY MR. OVERSTREET:

14 Q And once you're seated, go ahead and state
15 and spell your full name, please.

16 A Daniel Leonard, D-a-n-i-e-l, L-e-o-n-a-r-d.

17 Q And, Officer Leonard, where are you
18 employed?

19 A City of Portland as a police officer.

20 Q And how long have you been in law
21 enforcement?

22 A This is almost the end of year 11.

23 Q 11? Okay. And were you working as a
24 police officer on July -- excuse me -- July 30th of
25 this year?

Examination of Daniel Leonard

1 A Yes, I was.

2 Q And which precinct were you working out
3 of at --

4 A East Precinct.

5 Q East Precinct. And what was your shift
6 that day?

7 A Scheduled day shift and then I was
8 scheduled to work overtime on afternoon shift.

9 Q Okay. So when did you intend to be done
10 with your shift?

11 A My regular shift would've ended at
12 4:40 p.m.

13 Q And what about that day? What did you
14 think that it was going to end? You said --

15 A It was supposed to end --

16 Q -- you were scheduled for overtime.

17 A -- at 2:00 a.m.

18 Q 2:00 a.m.?

19 A Yeah.

20 Q Okay. And did you receive this call about
21 a disturbance at a Safeway at 122nd and Glisan?

22 A Originally, I didn't hear much of the call
23 come out --

24 Q Okay.

25 A -- until --

Examination of Daniel Leonard

1 Q So what did you hear?

2 A I heard an officer ask for another less
3 lethal because someone had dropped a machete and now
4 had a hatchet.

5 Q Okay. So the radio call you heard, there
6 was a mention of a machete?

7 A Yes.

8 Q Okay. And it was that somebody had dropped
9 the machete, but picked up a hatchet?

10 A Yes.

11 Q Okay. And this is just what you're hearing
12 over the radio?

13 A Correct.

14 Q Okay. And the request was for another
15 less lethal?

16 A Yes.

17 Q And are you trained in using
18 less-lethal weapons?

19 A Yes. Yes, I am.

20 Q And so did you respond to that location?
21 Or where did --

22 A I did.

23 Q -- where did you actually respond to?

24 A I responded to 122nd and Burnside.

25 Q Okay. Did you see the subject when you

Examination of Daniel Leonard

1 arrived at 122nd and Burnside?

2 A Yes, I did.

3 Q And where was he at the time that you
4 arrived?

5 A He was to the north of me. I was asked to
6 block northbound traffic.

7 Q Okay. Of Burnside -- of --

8 A Of --

9 Q -- 122nd?

10 A -- 122nd, yeah.

11 Q And was he on the -- so he was on the north
12 side of Burnside or --

13 A He was north of Burnside and on the
14 west sidewalk.

15 Q Okay. And could you just describe his
16 general demeanor from your observation point?

17 A Erratic. He looked high on meth, had the
18 hatchet raised up and just kind of didn't have any
19 direction really --

20 Q Okay.

21 A -- purpose or --

22 Q Did it appear that he was focused on any
23 one thing in particular or was it just -- you already
24 said erratic.

25 A Yeah. People Were scattering and driving

Examination of Daniel Leonard

1 off and trying to get away from him.

2 Q Okay. Did you give him any commands?

3 A I did not.

4 Q Did you have -- you said you responded as a
5 less-lethal cover. Did you end up deploying one of
6 your less-lethal weapons?

7 A I did not.

8 Q What was your role then in engaging with
9 the subject?

10 A So by the time I got my less lethal out of
11 the rack, got it slung, got the leg carrier, he was
12 already -- I don't know if you want me to point at
13 the map for --

14 Q Sure, if you can.

15 A -- for where I was at. So I was blocking
16 traffic here.

17 Q And you're pointing to the intersection of
18 122 and Burnside?

19 A Correct.

20 Q Okay.

21 A He was walking up this way and by the time
22 I got my less lethal out, he was kind of in the
23 middle already. And so my backstop was just a lot of
24 people if I had missed.

25 Q Okay.

Examination of Daniel Leonard

1 A And so I didn't have --

2 Q And your less lethal, is that a
3 40 millimeter?

4 A Yes.

5 Q And did you notice if there were other
6 officers with other less lethal as well?

7 A I did.

8 Q And did that include 40 millimeter and also
9 Tasers or did you see?

10 A I saw Officer -- Officer Bianchini with his
11 40 millimeter.

12 Q Okay. And you said you did not deploy your
13 40 millimeter.

14 A Correct.

15 Q Did you observe other officers deploy
16 theirs?

17 A Yes.

18 Q Do you recall how many times or how many
19 shots were fired?

20 A I recall two.

21 Q Two? And did you observe them hit
22 the subject?

23 A I observed one hit the subject. I don't
24 know about the other one.

25 Q Okay.

Examination of Daniel Leonard

1 A I heard the second one, but I don't -- I
2 couldn't see from my vantage point who had fired it
3 or if it hit him 'cause I was -- yeah. Just the way
4 that they were aligned, I couldn't see who the second
5 officer was.

6 Q About how far away were you from the
7 subject when the 40-millimeter rounds were deployed?

8 A I was standing in the middle of the
9 intersection and he was, I would say, maybe -- what's
10 the distance between this -- maybe 30 feet from me.

11 Q Okay. But you were still back at
12 the intersection?

13 A Yes.

14 Q 122nd and Burnside?

15 A Yes.

16 Q Okay. Did you observe the subject run
17 after the 40-millimeter was deployed?

18 A Yes, I did.

19 Q Okay. What did you do in response to
20 seeing him run?

21 A I jumped back into my car, put my less
22 lethal back in the rack and followed after him in
23 the car.

24 Q And where did you go? Where did he go?

25 A We went southbound on 122nd and then made a

Examination of Daniel Leonard

1 right onto Ash.

2 Q Okay. And did you -- were you able to keep
3 a visual of the subject at all times?

4 A Not at all times. I -- once I came around
5 the corner, there were a few citizens outside and
6 they -- you know, pointing into a courtyard of some
7 apartments.

8 Q Okay. And did you go to that area that
9 they were pointing?

10 A I did, yeah. There were some officers
11 following behind me on foot in their car --

12 Q Okay.

13 A -- or I'm -- I'm sorry -- following my car
14 on foot. And so --

15 Q So when you got out of your vehicle, were
16 you the first one into the corridor or were other
17 officers there?

18 A No. The other officers were already -- I
19 was a few steps behind 'cause I was trying to get my
20 less lethal back out of the rack so I could have
21 that --

22 Q Okay.

23 A -- tool with me.

24 Q So when you make it up into the corridor
25 and you're behind the group of officers, did you have

Examination of Daniel Leonard

1 your less than lethal available at that time?

2 A I did.

3 Q Okay. Did you see where the subject had
4 gone in the corridor?

5 A I could see that he was standing just
6 straight ahead.

7 Q Okay. Was he facing the officers or was he
8 turned away and --

9 A He was facing officers.

10 Q Okay. Was he moving towards the officers
11 or was he backing away or was he just stationary?

12 A I couldn't see because there was -- he
13 wasn't running away. He was facing me. And there --
14 call it a wall of cops, I guess --

15 Q Okay.

16 A -- five or six officers in front of me in
17 kind of a line.

18 Q Could you see what the subject was doing
19 with his hands?

20 A I saw that he had dove one hand into his
21 pocket. I didn't see what came out 'cause I just had
22 a small window, so I saw the hand dive into the
23 pocket and then just because (indiscernible) I didn't
24 see what came out (indiscernible).

25 Q Did you hear officers giving him commands

Examination of Daniel Leonard

1 at the time that he was digging into his pockets?

2 A Yes.

3 Q What kind of commands were you hearing?

4 A I recall hearing, "Stop," and then I recall
5 hearing, very clearly, twice, "Don't do it. Don't
6 do it."

7 Q Okay. How -- after you heard, "Don't do
8 it. Don't do it," did you hear any gunshots?

9 A Yes.

10 Q Was it immediately after you heard, "Don't
11 do it. Don't do it"?

12 A Yes.

13 Q But at that point, you did not see
14 any weapons --

15 A No, I didn't.

16 Q -- displayed by the subject?

17 A I didn't see through the officers that were
18 in front of me.

19 Q Okay. And about how many shots did you
20 believe you heard?

21 A I thought it was about nine at the time.

22 Q After the shots were fired, where did
23 you go?

24 A A few residents started coming out of their
25 apartment, so I was saying, you know, "Go back

Examination of Daniel Leonard

1 inside. Go back inside," just trying to keep people
2 away.

3 Q Did you approach the subject at that point
4 or did you just deal with --

5 A At that point, I just dealt with trying to
6 keep citizens inside. Once the citizens that were
7 downstairs -- the downstairs apartments, they were
8 cooperative. They went back in. There were some
9 very unfriendly people that were coming out of their
10 apartments from upstairs.

11 But after the folks downstairs went back
12 into their apartments, I came back over and -- and
13 gloved up and started peeling off QuikClot gauze
14 and --

15 Q Assisting with medical?

16 A -- stuff (indiscernible).

17 Q Okay. Do you recall seeing any keys or a
18 knife laying near the subject --

19 A Yes.

20 Q -- who had been shot? And did you see keys
21 or a knife?

22 A I believe the knife was attached to a
23 keyring.

24 Q Okay. Could you just describe that the
25 best you can?

Examination of Daniel Leonard

1 A Seemed to be like a three-to-four-inch
2 folding knife.

3 Q Okay.

4 A Along with (indiscernible) keyring.

5 Q And were there keys on the keyring?

6 A Yes.

7 Q Did you say, "Yes"?

8 A Yes.

9 Q And where was that located in relation to
10 the individual who had been shot?

11 A It seemed to be next to his left side as
12 he was --

13 Q Was he laying on his back when you saw him?

14 A Originally, no.

15 Q Okay. Was he rolled over?

16 A Once officers started medical, then he was
17 on his back.

18 Q Okay.

19 A Originally, he had kind of crumpled down in
20 the front.

21 Q Okay. But once emergency services were
22 being applied to him, he was rolled over onto
23 his back?

24 A Yes.

25 Q Okay. And so when you saw the knife, are

Examination of Daniel Leonard

1 you referring to on his left from when he was lying
2 on his back or do you recall --

3 A It was --

4 Q -- seeing that earlier --

5 A -- it was --

6 Q -- before they rolled him over?

7 A Yeah, it would be on his stomach. Either
8 way, it would still be on his left side.

9 Q Okay. And when you say, "on his left
10 side," near his feet, near his head, mid body?

11 A Mid.

12 Q About mid? Okay. Did you or another
13 officer that you saw grab the keys and the knife or
14 kick them out of the way or anything like that?

15 A (Indiscernible).

16 Q You, yourself, did not touch it, though?

17 A No.

18 MR. OVERSTREET: Okay.

19 BY MR. HANNON:

20 Q And I'm sorry. It's audibly recorded and
21 you have kind of a quiet voice, so if you can speak
22 up just a little bit --

23 A Sure.

24 MR. HANNON: -- appreciate it.

25 BY MR. OVERSTREET:

Examination of Daniel Leonard

1 Q And the knife, itself, was it a folding
2 knife or was it a straight-blade knife?

3 A A folding knife.

4 Q And was it folded or was it open?

5 A I don't recall.

6 Q Okay. You recall specifically that there
7 was a knife, but not whether it was open or not?

8 A Correct.

9 Q Okay. At any point, do you recall seeing
10 the individual holding the knife?

11 A I did not.

12 Q Okay. When you heard the radio
13 transmission about the individual and what was
14 happening originally, did you hear any -- anybody
15 state over the radio that the subject possibly had a
16 knife as well?

17 A Yes.

18 Q And the first time you saw that knife was
19 after the shooting when it was laying next to
20 the subject --

21 A Yes.

22 Q -- is that correct?

23 MR. OVERSTREET: Okay. Does anybody have
24 any questions for Officer Leonard?

25 A GRAND JUROR: When you saw him with the

Examination of Daniel Leonard

1 hatchet, was it in his right or left hand?

2 THE WITNESS: Right hand.

3 A GRAND JUROR: Okay.

4 MR. OVERSTREET: Another question over
5 here?

6 A GRAND JUROR: You said when you came up
7 to the corridor that you could see a little bit of
8 the subject and that he dove one hand into a pocket.

9 THE WITNESS: Yes.

10 A GRAND JUROR: Do you remember if that was
11 his right or his left hand?

12 THE WITNESS: His left hand.

13 A GRAND JUROR: Left hand.

14 MR. OVERSTREET: Another question?

15 A GRAND JUROR: When you first observed the
16 knife to his left, was he facing up or facing down?

17 THE WITNESS: The knife after he had
18 been shot?

19 A GRAND JUROR: Yes.

20 THE WITNESS: It was a very awkward
21 position because he had gone down slowly.

22 A GRAND JUROR: Right.

23 THE WITNESS: So he wasn't fully laying
24 flat on his stomach.

25 A GRAND JUROR: I -- okay. I guess before

Examination of Daniel Leonard

1 he was roll -- rolled onto his back.

2 THE WITNESS: Uh-huh. He was laying
3 towards -- just face down.

4 A GRAND JUROR: But did --

5 BY MR. HANNON:

6 Q I guess I -- to reclarify the question, I
7 think what he's asking is: Did you see the knife
8 before he was rolled onto his back or in the original
9 position, if I understood the question correctly.

10 A GRAND JUROR: Yes.

11 THE WITNESS: I saw it before he was rolled
12 onto his back.

13 BY MR. OVERSTREET:

14 Q And that's where you're saying it was on
15 his left side?

16 A Yes.

17 A GRAND JUROR: Yes.

18 MR. OVERSTREET: Okay.

19 A GRAND JUROR: (Indiscernible).

20 MR. OVERSTREET: Any other questions for
21 this officer? One more?

22 A GRAND JUROR: Yeah.

23 MR. OVERSTREET: Okay.

24 A GRAND JUROR: Maybe I missed it. Did you
25 or anybody else move the knife away from the body?

Examination of Christian Santos

1 THE WITNESS: I did not. I don't know if
2 anyone else did.

3 A GRAND JUROR: Okay.

4 MR. OVERSTREET: Any other questions?
5 Okay. I think that's it. Thank you.

6 MULTIPLE GRAND JURORS: Thank you.

7 THE WITNESS: Thank you.

8 MR. OVERSTREET: (Indiscernible) and raise
9 your right hand to be sworn in.

10 **CHRISTIAN SANTOS**

11 Was thereupon called as a witness; and, having been
12 first duly sworn, was examined and testified as follows:

13 MR. OVERSTREET: Okay. Go ahead and take
14 a seat.

15 THE WITNESS: Thank you.

16 **EXAMINATION**

17 BY MR. OVERSTREET:

18 Q Once you're seated, go ahead and state and
19 spell your full name, please.

20 A My name is Christian Santos,
21 C-h-r-i-s-t-i-a-n, S-a-n-t-o-s.

22 Q And, Officer Santos, where are you
23 employed?

24 A I'm employed with the Portland Police
25 Bureau.

Examination of Christian Santos

1 Q And how long have you been in law
2 enforcement?

3 A I've been employed with the Portland Police
4 Bureau since February of 2018. And before that, I
5 was a military police officer in the Air Force for
6 six years.

7 Q Okay. And were you working as a police
8 officer on July 30th of this year?

9 A That's correct.

10 Q And what was your shift that day?

11 A I was working B shift, I believe.

12 Q What are those hours?

13 A From -- let's see. It's from 10:00 a.m. to
14 8:00 p.m.

15 Q Okay. And so this incident we're talking
16 about today regarding 122nd and Glisan, that happened
17 kind of around the middle of your shift?

18 A Correct.

19 Q Towards -- okay. And which precinct were
20 you working that day?

21 A I was working in East Precinct.

22 Q Okay. And could you just describe what you
23 heard over the radio regarding this call that led to
24 you responding?

25 A So over the radio, there were reports of a

Examination of Christian Santos

1 man charging at people with a -- a hatchet or an axe
2 and also with a knife.

3 They said over the radio that he charged at
4 multiple people and that he was threatening to, like,
5 fight with them. And people were reporting over
6 the -- the radio that he was saying that he was a
7 federal officer or claimed to be one.

8 Q Okay. So that's the information you had
9 before you arrived?

10 A Correct.

11 Q And where did you respond to?

12 A I responded on 122nd to the -- the east
13 side of the building. It looks like 122nd and
14 Glisan, I believe, is where the incident originated.
15 And I was -- I came southbound -- or northbound from
16 122nd (indiscernible).

17 Q Okay. And so you responded to basically
18 the initial incident --

19 A Mm-hmm.

20 Q -- location?

21 A That's correct.

22 Q Okay. When you arrived there, did you see
23 the subject of the call?

24 A Yes.

25 Q And could you describe his demeanor at the

Examination of Christian Santos

1 time that you arrived?

2 A He was pretty, like, amped up. I could
3 hear him. I had my window rolled down in the car and
4 I could hear him shouting when me and Officer Zentner
5 first saw him when I saw -- when we first
6 approached him.

7 Q Yeah. Did you see what the subject of the
8 call was regarding the hatchet or an axe or a knife?
9 Did you see anything like that on him?

10 A Yeah. On his waistband, I could see that
11 there was, like, a long object that looked like it
12 was, like, a sheathed small axe or a hatchet.

13 Q Okay. With -- with the information you had
14 from the call and seeing what you saw when you
15 arrived, what did you decide to do?

16 A One of the original officers, Officer
17 Zentner, you know, hopped out of her car to go make
18 contact, so I immediately, you know, parked my car
19 right behind her and accompanied her to, you know,
20 confront the person.

21 Q Okay. And did you display any firearms,
22 Tasers, less lethal, anything else?

23 A Not initially.

24 Q Okay. Did you just try to make
25 verbal contact?

Examination of Christian Santos

1 A Yes.

2 Q Okay. Did he, the individual, respond to
3 your verbal contact?

4 A No, he wasn't really responding to us.

5 Q Okay. At any point did he take the axe out
6 of his belt?

7 A Yes.

8 Q Or the hatchet.

9 A Mm-hmm.

10 Q And what did he do with it when he took
11 it out?

12 A He immediately started, like, marching away
13 from us, if I remember correctly.

14 Q Do you recall whether at that point you
15 decided to retrieve any tools from your belt?

16 A I'm -- if I'm not mistaken, I believe as
17 soon as he took the hatchet out or if not, maybe even
18 before then, I might have -- I -- I think it was
19 after -- I'm not too sure. But I did have my Taser
20 out when he was marching away with the axe.

21 Q Okay. So at some point, you --

22 A Yeah.

23 Q -- drew your Taser?

24 A Mm-hmm.

25 Q Okay. Did you ever use your Taser on

Examination of Christian Santos

1 the individual?

2 A No.

3 Q And why not?

4 A The opportunity never presented itself.

5 Q And what do you mean "opportunity"?

6 What -- what would be necessary for you to use your
7 Taser?

8 A The appropriate distance. So when he was
9 marching away, he was -- first of all, he was
10 marching at a pretty quick pace and it's not a good
11 idea to Tase someone from -- on the back when they're
12 running away 'cause they might hit their head on the
13 ground. So his back was towards me.

14 He wasn't, you know, threatening us with
15 the axe at the time when he was marching away. And
16 he got his distance pretty quick. I'm not too sure.
17 I remember we were pretty far back, so we were
18 trailing behind him from quite the distance.

19 Q And how close would you need to be with
20 somebody for the Taser to be effective?

21 A About around 15 to 25 feet, somewhere
22 around there.

23 Q And did you feel it safe to come within
24 that close of a distance to him?

25 A Oh, definitely not.

Examination of Christian Santos

1 Q Did any other officers have any firearms
2 out at the -- at that time?

3 A I believe one of the officers had a
4 less-lethal launcher, the one that fires a
5 30-millimeter rubber bullet. And another officer
6 might have had their firearm out.

7 Q Okay. And you had your Taser?

8 A Mm-hmm.

9 Q Okay. At that time, were any of those
10 weapons utilized?

11 A Not yet.

12 Q Okay. And so did you -- were you part of
13 the group that initially followed behind the
14 individual?

15 A Correct.

16 Q Okay. Did you see -- as you're giving --
17 as you're pursuing him, did you see whether the
18 individual used the hatchet to hit anything or
19 anyone?

20 A He was, like, waving it around generally.
21 At one point, I know he -- or I believe he struck a
22 cone, like, a traffic cone with it.

23 Q Like an orange traffic cone?

24 A Yeah, like an orange traffic cone --

25 Q Okay.

Examination of Christian Santos

1 A -- stanchion maybe.

2 Q And how did he hit it? Do you remember?

3 A I'm not too sure.

4 Q And you're not sure which --

5 A Yeah. I know -- I -- in my memory, I think
6 he hit it and maybe the cone either bobbed or
7 toppled over.

8 Q Okay. And where was that in relation to
9 the -- the road?

10 A It was --

11 Q 122nd, specifically.

12 A If I'm not mistaken, it was, like, just off
13 of the sidewalk.

14 Q In the road?

15 A Like, right at the curb maybe. I'm not too
16 sure. I don't remember.

17 Q Okay. Did he hit anything else with
18 the hatchet?

19 A Not that I remember.

20 Q Do you recall whether he specific
21 threatened -- specifically threatened any individual?

22 A I -- I honestly can't remember any specific
23 things he was saying.

24 Q Okay. Did you see him ever walk towards a
25 group of people or to where people were --

Examination of Christian Santos

1 A Yeah.

2 Q -- while still swinging the hatchet?

3 A Yes.

4 Q Okay. Were people running away from him,
5 moving away from him?

6 A People were moving away on their own for
7 the most part. I don't remember anybody specifically
8 running, but, yeah. People were getting their
9 distance from him.

10 Q Okay. (Indiscernible). Did you see any
11 point where the individual approached any vehicles?

12 A Yes.

13 Q Okay. Do you recall that location?

14 A I'm not too sure the location, but I know
15 it was a -- a street that intersected with 122nd.

16 Q Okay.

17 A It was, like, on the west side of 122nd,
18 one of those --

19 Q And was it north or south of Burnside? Do
20 you -- do you remember?

21 A I'm not too sure.

22 Q And what kind of car was it?

23 A It was a black SUV. I don't know. I
24 didn't ever see what the brand was.

25 Q Okay. And what did the individual with the

Examination of Christian Santos

1 hatchet do?

2 A He went right up to the door and he started
3 shouting at the -- I don't know if he was shouting at
4 the driver or just shouting. I don't know what he
5 was saying, but he went up right to the door, like,
6 face to face with it. I don't know if he tried for
7 the handle 'cause his back was to me.

8 Q Okay.

9 A So I couldn't see what he was doing with
10 the car, but --

11 Q Was he able to open the door to the car or
12 get in --

13 A No.

14 Q -- or -- okay. Did the vehicle just leave?

15 A I think he went around the vehicle. I'm
16 not too sure.

17 Q Okay. Did you see -- when the
18 40-millimeter rounds were deployed, did you see
19 whether they struck the individual or not?

20 A I think they did. When the first one went
21 off, I remember him, like, responding to it as if he
22 got hit. I think -- I thought he was hit in the
23 leg maybe --

24 Q Okay.

25 A -- 'cause it -- he, like, went down a

Examination of Christian Santos

1 little bit, so --

2 Q After he was hit, where -- where did he go?

3 A He stayed in the middle of the street for a
4 little bit.

5 Q Okay. And where did he go after that?

6 A Then he ran southbound on 122nd.

7 Q And did you pursue him?

8 A Yes.

9 Q You pursued him on foot?

10 A Yes.

11 Q And where did you pursue him to?

12 A We turned west on Ash --

13 Q Okay.

14 A -- and then south in towards -- or, like,
15 into an apartment complex.

16 Q Were you directly behind him?

17 A Not directly. I had some distance, but I
18 was, you know, within sight of him the whole time.

19 Q Okay. Was there any officers between you
20 and the subject?

21 A I don't believe so, but there might have
22 been. I'm not too sure.

23 Q Okay. Did you see where the individual
24 went when they entered this sort of courtyard area?

25 A Yes.

Examination of Christian Santos

1 Q Where did he go?

2 A He ran -- it was like a -- it was like a
3 corridor and he ran all the way to the back of the
4 corridor to where there was, like, a wooden fence
5 that prevented him from running any further. And
6 then he stopped there.

7 Q Okay. And once he stopped there, did he
8 turn back towards you?

9 A Yes.

10 Q Did he proceed to come back towards you or
11 did he just stay there?

12 A No. He proceeded to walk up towards us,
13 I think.

14 Q Okay. And did you engage him at that
15 point?

16 A Yeah. We had enough distance at this point
17 still that we were giving him verbal commands to get
18 on the ground. And he stopped maybe about, like,
19 40 feet from us, 40 or 50 feet from us.

20 Q Okay. How many officers do you believe
21 were there at the initial encounter?

22 A Initially, I think it was just me and
23 Officer Greg Budey. I think it was just me and him.

24 Q Okay.

25 A Initially, it was just the two of us and

Examination of Christian Santos

1 then more, you know, popped in line after.

2 Q Okay. Was that pretty quick that they
3 showed up?

4 A It was pretty quick.

5 Q Okay. You still had your Taser out at
6 that point?

7 A Mm-hmm.

8 Q Do -- do you recall what Officer Budey
9 had --

10 A He had his --

11 Q -- if anything?

12 A -- firearm out.

13 Q Okay. Were you giving commands to
14 the individual?

15 A Yeah. Initially, when it was just me and
16 Greg, we both were shouting commands like, "Hey, get
17 on the ground." I stopped giving commands 'cause I
18 felt like Greg was doing enough and I didn't want to
19 confuse the guy, so I stopped giving commands and I
20 just let Greg shout.

21 Q Okay. So only one person was giving
22 commands at that point?

23 A At that point, yeah.

24 Q And was the individual responding to
25 those commands?

Examination of Christian Santos

1 A Yeah, he stopped.

2 Q Okay.

3 A You know, he didn't march forward as we
4 were shouting at him too much.

5 Q And when he stopped, did he continue
6 yelling or doing anything like that or was --

7 A Yeah --

8 Q -- did --

9 A -- he was still yelling.

10 Q Okay. So as far as his demeanor, had it
11 changed much from when you originally saw him?

12 A No, not so much. He was still pretty
13 escalated.

14 Q Okay. But he did stop?

15 A Yeah.

16 Q Okay. Did he -- was he displaying any
17 weapons at that time? Did he -- you said he
18 responded to the commands. Was he responding by
19 getting on the ground? Was that one of the commands?

20 A That was one of the commands, but he wasn't
21 responding to that.

22 Q Okay. So the only thing he did was stop?

23 A Yes.

24 Q Was there anything else he did in response
25 to the commands?

Examination of Christian Santos

1 A Yeah. At one point, there was a lot of
2 officers and one of them had shouted out that they
3 see a knife. So another officer shouted out, "Don't
4 reach for the knife," and then he proceeded to reach
5 for the knife.

6 Q Did you see him reaching for a knife?

7 A I saw him reaching for something at his
8 belt line. I'm not too sure what it was. From my
9 angle, I couldn't see a knife.

10 Q Okay.

11 A I assumed it was a knife.

12 Q The officer that yelled out that he saw
13 a knife --

14 A Mm-hmm.

15 Q -- did that officer have a different angle
16 than you?

17 A Yeah. I was -- if I remember correctly, in
18 the corridor, I was on, like, the far right against
19 the wall and I heard the person shout, "Knife." That
20 person, I believe, was to the left of me, so they
21 would've been able to see his right side.

22 Q And do you recall which direction the
23 subject was facing at the point that the knife was
24 called out?

25 A I believe he was facing towards us.

Examination of Christian Santos

1 Q Do you recall --

2 A I think --

3 Q -- this being a corridor and you said you
4 were on the right, people on the left, do you recall
5 whether he was facing more towards your direction or
6 more towards the people on your left?

7 A I'm not too sure.

8 Q Okay. But you're sure that he was facing
9 at least in the direction of the officers?

10 A Mm-hmm.

11 Q Okay. And when you saw him reaching for
12 something --

13 A Mm-hmm.

14 Q -- or in his waistband area, do you recall
15 whether it was a particular side of his body or
16 whether it was in front?

17 A If I remember correctly, he was reaching
18 down to the right side, like, towards his right like
19 I'm doing right now.

20 Q Okay. And was that away from you?

21 A Yeah, it was away.

22 Q Like, reaching away from you?

23 A Mm-hmm.

24 Q Okay. And that was -- the point when he's
25 doing that, that was in -- shortly after the command

Examination of Christian Santos

1 of, "Don't reach for it," or, "Don't grab the knife,"
2 or something like that?

3 A Yes.

4 Q After you heard that command and him
5 reaching for something, what happened next?

6 A Immediately, I heard, you know, loud bangs.
7 At first, I thought it was maybe a less-lethal
8 launcher, but then I turned as it was going off.
9 Then I realized, oh, it's a gun, so --

10 Q Okay. And were you still looking at the
11 subject --

12 A Yes.

13 Q -- at that time or were you looking towards
14 where the firing was coming from?

15 A I was looking initially for the first few
16 shots, then I turned to my left to see what tool was
17 being used. And I saw it was a gun, so --

18 Q Okay.

19 A -- I decided not to use my Taser.

20 Q Okay. Did you holster your Taser at
21 that point?

22 A I'm not too sure.

23 Q Okay. After the shooting stopped, what did
24 you do?

25 A We all decided to approach the -- the

Examination of Christian Santos

1 person who was down. We approached in a line and I
2 grabbed -- I saw something that fell on the floor and
3 I saw that it was a knife, so I grabbed the knife and
4 put it underneath, like, the -- a -- a nearby
5 staircase. It was, like, (indiscernible).

6 Q Okay. And I want to talk about that a --
7 in a little bit more detail. So when you approach --

8 A Mm-hmm.

9 Q -- you say you saw something that
10 had fallen --

11 A Yes.

12 Q -- or dropped?

13 A Yes.

14 Q How did you know that that had dropped
15 or fallen?

16 A I'm pretty sure I saw it fall from him.

17 Q I see.

18 A Yeah.

19 Q You think it fell from his person?

20 A Yeah.

21 Q Do you recall whether he was holding it at
22 the time that it fell?

23 A No, I don't remember.

24 Q Or whether it just fell off of his belt or
25 off of his body in some way?

Examination of Christian Santos

1 A I'm not too sure.

2 Q Okay. You just think that you saw it fall?

3 A Yeah, it definitely fell from him. I'm not
4 too sure if it was in his hands or at his belt line
5 and fell or --

6 Q Okay.

7 A -- what, but --

8 Q And what was this item? Could you describe
9 it in more detail, please?

10 A I think it was, like, a pocketknife with
11 maybe a keychain, like, a lanyard. It was like a
12 black pocketknife.

13 Q And was the pocketknife open or closed?

14 A It was closed.

15 Q So the knife was not -- when you saw it
16 at least --

17 A Mm-hmm.

18 Q -- the knife was not open?

19 A I believe so.

20 Q Okay. And you picked it up?

21 A Mm-hmm. I picked it up and I set it, like,
22 maybe, like, a yard away from him.

23 Q And why did you do that?

24 A Just -- just in case, you know, just
25 because he was still responsive at that time. I

Examination of Christian Santos

1 didn't want him to, you know, get another surge of
2 adrenaline and try and reach for any potential
3 weapons --

4 Q Okay.

5 A -- nearby.

6 Q So you moved it to secure it?

7 A Yes.

8 Q Okay. So you saw him drop the knife,
9 but you're saying that you didn't see him actually
10 retrieve the knife from his waistband or his pocket;
11 is that correct?

12 A Correct.

13 Q And when you first saw it, you said it --
14 obviously that he dropped it and it was on the
15 ground. Do you recall, in relation to him, where the
16 knife was?

17 A It was towards his feet.

18 Q Okay. Had he fallen to the ground yet when
19 you had --

20 A Yeah.

21 Q Okay. And do you recall whether he was
22 laying or sitting or how was he positioned?

23 A He was, like, laying on the ground, but his
24 back was up and leaned against, like, a -- like, a
25 support beam --

Examination of Christian Santos

1 Q Okay.

2 A -- that was holding up the above floor.

3 Q And at that point, that's where you saw the
4 knife towards his feet?

5 A Yeah.

6 Q Okay. And you are the one specifically who
7 secured it?

8 A Yes.

9 Q Okay. Did you see whether another officer
10 touched the knife at all?

11 A No.

12 Q You did not see or they did not?

13 A Oh, no. I didn't see if any other officer
14 touched it.

15 Q After the scene was secure, did you go back
16 and retrieve the knife?

17 A No.

18 Q Do you believe another officer did that?

19 A Probably, yeah, yeah.

20 Q You didn't see the individual grab the
21 knife again or anything like that?

22 A No.

23 MR. OVERSTREET: Okay. I'm going to look
24 at my notes really briefly, but if anybody has
25 any questions --

Examination of Christian Santos

1 BY MR. HANNON:

2 Q I have one followup, actually. When you
3 moved the knife, you keep moving your hands in a
4 particular way. Did you just pick it up with
5 one hand? Did you pick it up with two hands? Do
6 you recall how you moved the knife from Point A to
7 Point B?

8 A I'm pretty sure I -- because it doesn't --
9 it didn't look big, so I'm pretty sure I just lifted
10 it with one hand and placed it underneath the
11 nearby staircase.

12 Q And do you recall if you lifted it by the
13 knife or by the keys since there were keys attached
14 to it?

15 A I -- I don't remember.

16 MR. HANNON: Okay. All right.

17 MR. OVERSTREET: Question from a grand
18 juror?

19 A GRAND JUROR: What -- was the knife
20 opened or closed? Do you remember?

21 THE WITNESS: I think it was closed.

22 A GRAND JUROR: Okay. And when you first
23 saw it near the body, do you remember if it was on
24 his right or left side?

25 THE WITNESS: It was -- so he was sort of

Examination of Christian Santos

1 laid down and propped up.

2 A GRAND JUROR: Mm-hmm.

3 THE WITNESS: And I believe it was, like --

4 A GRAND JUROR: Between his --

5 THE WITNESS: -- just between his feet.

6 I'm almost positive.

7 A GRAND JUROR: One more question about the
8 Taser. What did you say the effective distance
9 would -- you would need to be able to use it?

10 THE WITNESS: It's between, like, 15, 25,
11 maybe pushing even 30 feet.

12 A GRAND JUROR: Okay.

13 THE WITNESS: Somewhere between there.

14 A GRAND JUROR: And how far away did you
15 think he was when you were all in a line in the
16 corridor?

17 THE WITNESS: I'm not too sure. He seemed
18 pretty far away. I think maybe 40 or 50 feet away
19 from us.

20 A GRAND JUROR: So farther than you felt
21 you could use your Taser?

22 THE WITNESS: Yeah, definitely.

23 A GRAND JUROR: Okay.

24 BY MR. OVERSTREET:

25 Q And, Officer Santos, are you trained that

Examination of Christian Santos

1 25 feet is actually the maximum distance of the
2 Taser's effective range?

3 A Yeah.

4 Q And are you --

5 BY MR. HANNON:

6 Q And to follow up, the --

7 MR. HANNON: Sorry.

8 BY MR. OVERSTREET:

9 Q I was going to say, are you trained with
10 the Taser that the farther the distance, the less
11 effective that it is?

12 A Absolutely.

13 BY MR. HANNON:

14 Q And with regard to the Taser, are you
15 trained to be able to hold a Taser in one hand and a
16 firearm in another or are you --

17 A Never.

18 Q -- electing to choose one or the other?

19 A It's one or the other. You never want to
20 hold both at the same time.

21 Q And so if you're electing one or the other
22 and the threat is either aggressive or escalating or
23 not responsive, are you, yourself, exposed if you're
24 deciding to grab a Taser as your option versus
25 a firearm?

Examination of Christian Santos

1 A Absolutely.

2 Q And why are you exposed?

3 A 'Cause if I have my Taser out and some,
4 like, force was to escalate to where the person is
5 threatening my life, I just have a little less-lethal
6 tool. In order for me to switch, I would have to
7 either throw, holster and then retrieve my firearm.

8 Q And -- and would that be able to be done
9 instantaneously or would that take some time to --

10 A That would --

11 Q -- (indiscernible)?

12 A -- take some time. It would take some time
13 to, you know, switch my tools.

14 A GRAND JUROR: And a question: Does the
15 amount of clothing a person wears affect the
16 effectiveness of the Taser? So if somebody's, like,
17 all bundled up, layered up --

18 THE WITNESS: Mm-hmm.

19 A GRAND JUROR: -- does that --

20 THE WITNESS: Yeah, absolutely. Even
21 things like hoodies can -- you know, anything with
22 thick cotton can prevent the probes from going
23 through.

24 A GRAND JUROR: Thank you.

25 BY MR. OVERSTREET:

Examination of Christian Santos

1 Q And -- and I don't think we've taken
2 testimony on this yet, but could you just briefly
3 describe how a Taser works?

4 A Yeah. So the Taser works -- there are
5 cartridges in it. The cartridge has two probes that
6 fire out. They're connected by a wire. The probes,
7 you know, fly out.

8 They're not too accurate, but they fly out.
9 They're supposed to attach to two different parts of
10 the person. That way, they can complete a circuit
11 and send electricity through.

12 Q And so for that to work, both probes have
13 to set into the individual, correct?

14 A Correct.

15 Q Mm-hmm. If one of the probes were to get
16 hung up or not attach at all, what's the next step in
17 use of the Taser? Is it effective?

18 A It's -- it's not effective. You -- we do
19 have two cartridges, so you have two shots to try and
20 get it perfect.

21 Q And is that something -- you have two
22 cartridges. Do you have to reload the cartridge to
23 take the second shot?

24 A No, you have -- you just click it twice.

25 Q You have two chances on --

Examination of Christian Santos

1 A Two chances.

2 Q -- one cartridge?

3 A No, two -- one chance on one cartridge. We
4 have two cartridges total.

5 Q So do you have to remove the first
6 cartridge and put the second cartridge on to shoot
7 again?

8 A No, it's --

9 Q You have two that are on the gun?

10 A It's two that's --

11 Q Or on the --

12 A -- on the -- on the front end of the gun.
13 So if you press the button twice, it'll shoot twice.

14 Q I see. So you have two chances?

15 A Two chances.

16 MR. OVERSTREET: Okay.

17 A GRAND JUROR: What is the wattage or
18 power that is emitted through the Taser?

19 THE WITNESS: I -- I can't give you
20 specifics, but it's high. Tens of thousands, I
21 believe.

22 BY MR. OVERSTREET:

23 Q And you've been trained on how to use a
24 Taser, correct?

25 A Yes.

Examination of Christian Santos

1 Q When a Taser is deployed, is it a
2 permanent -- let me ask the question differently.
3 Does it -- does it permanently debilitate the
4 individual that it hits --

5 A No.

6 Q -- or how long does it last?

7 A It goes for a five-second cycle. So
8 five seconds, it'll send electricity. And depending
9 on how the probes strike, ideally, you'd want one low
10 and one high so the -- the circuit will be affecting
11 the maximum amount of body.

12 So if two probes strike too close, it'll
13 just be shocking this area, like a -- you know, if it
14 was six inches apart, it would only be shocking in
15 between that six inches.

16 Q And so do you mean that -- does that mean
17 that it does not incapacitate the person necessarily?

18 A Not necessarily, no.

19 Q And once the cycle is done, what's the
20 effect on the individual after that?

21 A It's gone. The -- as soon as the -- the
22 cycle's complete, they're relieved of all shocking,
23 so they can move freely if they wish.

24 Q And we've all seen this on TV, I think.
25 When somebody gets shocked with a Taser, it knocks

Examination of Christian Santos

1 them out and they all of a sudden can't -- they're
2 not conscious and they're not able to fight anymore.
3 What's the effectiveness in reality of the Taser?

4 A Typically, as soon as the five-second cycle
5 is over, you're able to move again freely unless you
6 hit your head and get knocked out or some other thing
7 knocks you out.

8 Q Sure.

9 A The electricity, itself, won't knock you
10 out.

11 Q Okay. So it's not designed in order to
12 actually render somebody unconscious?

13 A No.

14 MR. OVERSTREET: That's what you're saying.
15 Okay.

16 Oh, go ahead.

17 A GRAND JUROR: Sorry.

18 MR. OVERSTREET: No, it's okay.

19 A GRAND JUROR: Does it act as a
20 defibrillator? Is that the same kind of thing going
21 on?

22 THE WITNESS: No, I'm not too sure how
23 defibrillators work. I think it just sends one giant
24 shock. I'm not too sure.

25 A GRAND JUROR: The --

Examination of Christian Santos

1 THE WITNESS: Like, it maybe --

2 A GRAND JUROR: The Taser does --

3 THE WITNESS: No.

4 A GRAND JUROR: -- or --

5 THE WITNESS: The Taser sends --

6 A GRAND JUROR: Oh, that's --

7 THE WITNESS: -- it cycles --

8 A GRAND JUROR: -- five seconds.

9 THE WITNESS: -- for five seconds --

10 A GRAND JUROR: (Indiscernible).

11 THE WITNESS: -- like, a continuous shock.

12 A GRAND JUROR: And once the cycle is done,
13 is that cartridge -- then you cannot send more energy
14 with a second pull of the trigger or any other way?
15 Like, say the suspect is not incapacitated with the
16 five-second charge. How would you reapply the
17 Taser's effectiveness to the suspect?

18 THE WITNESS: Mm-hmm. So assuming the
19 probes are both still in, if you would like to
20 recycle it, you have to pull the trigger again.

21 If you haven't fired the second cartridge
22 yet, you would have to press another button 'cause if
23 you press the trigger again, it'll shoot the other
24 cartridge off. So you'd have to press another button
25 to recycle it for another five seconds. Yeah.

Examination of Christian Santos

1 A GRAND JUROR: Do you know if there is any
2 change in the effect of a Taser if someone has a lot
3 of methamphetamine in their system?

4 THE WITNESS: As far as I know, the
5 effectiveness of a Taser is just the spread, so how
6 well the spread is on the person and whether or not
7 the probes stay attached while they're being Tased.

8 So if someone has methamphetamine, a lot of
9 it, in them, as long as your probe spread is good,
10 in -- in theory, it should get you down to the ground
11 at least.

12 A GRAND JUROR: (Indiscernible).

13 THE WITNESS: How they respond to being
14 shocked, everybody's different.

15 A GRAND JUROR: Okay.

16 BY MR. OVERSTREET:

17 Q And once the cycle is complete, is it
18 possible for somebody just to simply remove the
19 probe --

20 A Absolutely.

21 Q -- a -- one of the probes?

22 A You can remove it while being shocked.

23 A GRAND JUROR: Okay.

24 A GRAND JUROR: I have a question.

25 Following him reaching down to his waist for

Examination of Christian Santos

1 something there and then you stated you heard the
2 gunshots, do you recall at all if he was sitting in
3 one place or if he was moving forward towards you
4 guys?

5 THE WITNESS: I'm not too sure.

6 A GRAND JUROR: This might be an obvious
7 question. You said, after the first few shots, you
8 turned and you saw the gun. Did you see who was
9 holding the gun?

10 THE WITNESS: You mean the officer?

11 A GRAND JUROR: Yes.

12 THE WITNESS: Yeah, I saw his face. I
13 didn't recognize him.

14 A GRAND JUROR: Okay.

15 THE WITNESS: There's a lot of people who
16 work for the Bureau and I didn't work on his shift,
17 so I didn't recognize who exactly the officer was.
18 But I did see it was police officer.

19 A GRAND JUROR: I might have missed it, but
20 did you see the position the police officer was in
21 that fired the gun?

22 THE WITNESS: I believe he was taking a
23 knee. I believe he was taking a knee.

24 MR. OVERSTREET: Any other questions?

25 Okay. I believe that's it.

Examination of Christian Santos

1 MULTIPLE GRAND JURORS: Thank you.

2 MR. HANNON: And while we're transitioning
3 into our next witness, just a reminder, don't feel
4 encumbered by the number of questions. These are
5 your witnesses, so if you have followups, you're not
6 limited to one more question. If the question rises,
7 we'll take it.

8 MR. OVERSTREET: Does anybody need to take
9 a short break before we --

10 A GRAND JUROR: Yes.

11 MR. OVERSTREET: -- get into the --

12 A GRAND JUROR: Yeah.

13 MR. OVERSTREET: Okay.

14 A GRAND JUROR: Please.

15 MR. OVERSTREET: Now would be -- now would
16 be a good time. Why don't we take a five or
17 ten-minute break? We can go off the record and get
18 started then.

19 (Recess taken, 11:15 a.m. - 11:32 a.m.)

20 MR. OVERSTREET: Okay. We're back on the
21 record, Grand Jury 3, Case No. 54. And we're ready
22 to continue with our witnesses.

23 Stand by the chair and raise your right
24 hand and we'll swear you in.

25 GRIGORIY BUDEY

Examination of Grigoriy Budey

1 Was thereupon called as a witness; and, having been
2 first duly sworn, was examined and testified as follows:

3 EXAMINATION

4 BY MR. OVERSTREET:

5 Q Once you're seated, please go ahead and
6 state and spell your full name.

7 A My first name is Grigoriy; last name is
8 Budey, B-u-d-e-y. And the first name is
9 G-r-i-g-o-r-i-y.

10 Q And where are you employed, sir?

11 A I work for the City of Portland,
12 police officer.

13 Q Okay. And how long have you been in
14 law enforcement?

15 A Eight-and-a-half years.

16 Q And were you working -- working as a police
17 officer on July 30th of this year?

18 A Yes.

19 Q And what was your shift that day?

20 A I was B shift from 10 o'clock 'til
21 8:00 p.m.

22 Q And were you also working at East Precinct?

23 A Yes, I was.

24 Q Okay. And did you respond to this call
25 involving a subject armed with a knife?

Examination of Grigoriy Budey

1 A Yes.

2 Q Okay. And did you respond to the area of
3 122nd and Glisan or where did you respond to?

4 A 122nd and Glisan.

5 Q Okay. When you arrived at 122nd and
6 Glisan, did you make visual contact with the subject?

7 A Yes.

8 Q And could you just briefly describe his
9 demeanor from your perspective?

10 A Very aggressive. He was yelling towards
11 the officers that were trying to talk to him. He had
12 something in his hand. He kept pointing at it. Then
13 I noticed that he reached to the right side of his
14 body and pulled out an axe.

15 Q Okay. And did he display that axe?

16 A Yes.

17 Q What did -- what else did he do with it?

18 A He had it in his hand. At one point, he
19 had it over his head pointing towards the officers.

20 Q Okay. And were you attempting to make
21 contact with him or were you -- were you just
22 observing at that point?

23 A That -- that's when I was arriving,
24 observing all of that. I stopped and ran towards the
25 other officers to --

Examination of Grigoriy Budey

1 Q Okay.

2 A -- (indiscernible).

3 Q So you got out of your car --

4 A Yes.

5 Q -- and joined the group of officers

6 attempting to contact him?

7 A Yes, sir.

8 Q Okay. And when you did that, did you bring
9 any less-lethal tools with you or a firearm or what
10 did you --

11 A A firearm.

12 Q Yeah.

13 A I had my firearm.

14 Q You had your firearm drawn?

15 A Yes.

16 Q Okay. And where did you actually catch up
17 to him? Was it right near the -- 122nd and Glisan?

18 A Yeah.

19 Q Okay.

20 A It's -- it's a Safeway, so it's just south
21 of Glisan 'cause Safeway just --

22 Q Sure.

23 A -- just -- like, a block off of Glisan.

24 Q Okay. But when you joined that group,
25 it was --

Examination of Grigoriy Budey

1 A Yeah --

2 Q -- near that area?

3 A -- at the -- at the initial contact

4 (indiscernible).

5 Q Okay. And so you were part of the group

6 that kind of walked with him as --

7 A Yes.

8 Q -- he proceeded southbound on 122nd?

9 A Yes, sir.

10 Q Okay. And do you recall also either giving

11 commands or hearing commands being given to the

12 subject?

13 A Yeah. I -- I heard commands being given to

14 him, yes. And I'm sure that I yelled at him to stop

15 as well.

16 Q Okay. So I'm going to move a little

17 bit further ahead. At -- once you got to the

18 apartments at --

19 A Yes.

20 Q -- on Ash Street, were you one of the

21 officers pursuing the individual all the way to the

22 apartments?

23 A Yes.

24 Q And do you recall if there was any other

25 officers with you?

Examination of Grigoriy Budey

1 A Officer Santos was there for sure.

2 Q Okay. And where did the individual go and
3 where did you -- when you were pursuing him?

4 A He went to the breezeway, the first
5 breezeway into the apartment complex on the south
6 side of the street.

7 Q Okay. And did he proceed to go into the
8 breezeway or did he --

9 A Yeah, he -- he was in the breezeway. The
10 breezeway goes all the way to the end, but then
11 there's also -- you can go to the right. He was by
12 the stairwell that goes upstairs --

13 Q Okay.

14 A -- almost to the end of the breezeway.

15 Q Almost to the end?

16 A Yes.

17 Q Okay. And did you proceed to enter the
18 breezeway as well?

19 A Yes.

20 Q You and Officer Santos?

21 A Yes.

22 Q Okay. And were you giving commands at that
23 point or do you recall if you or Officer Santos were
24 giving commands?

25 A Yeah. We were telling him to, "Get down on

Examination of Grigoriy Budey

1 the ground."

2 Q Okay.

3 A "Get down on the ground."

4 Q Did the individual respond to your
5 commands?

6 A No, not at all.

7 Q At some point, did he stop moving away
8 from you?

9 A Yes, he was facing us. Yes.

10 Q About how far away from him were you when
11 he turned to face you?

12 A It's kind of hard for me to kind of judge.
13 I mean, he was pretty close.

14 Q Okay.

15 A I would have to, like, guess.

16 Q Okay. Well, I don't want you to -- to
17 guess.

18 A Yeah.

19 Q You were not within arm's reach, though?

20 A No, not within --

21 Q Okay.

22 A -- arm's reach.

23 Q And you had your firearm drawn?

24 A Yes.

25 Q And do you recall if Officer Santos had any

Examination of Grigoriy Budey

1 tools available to him that he was utilizing?

2 A Not that I could say for sure what he had.

3 Q Did you proceed -- continue to give
4 commands to the individual?

5 A Yes.

6 Q Okay. And how was he responding to
7 your commands?

8 A He would not listen at all.

9 Q Okay.

10 A Just -- he was yelling.

11 Q Okay.

12 A But I couldn't even tell what he was
13 yelling.

14 Q So he was yelling. Was he doing
15 anything else?

16 A He began reaching for his waistband, the
17 right side of his waistband --

18 Q Okay.

19 A -- where he had that axe before.

20 Q Where the axe was before?

21 A Yes.

22 Q Did he -- but he didn't have the axe at
23 this time?

24 A No, not at that time. No.

25 Q Okay. Did you see whether he had any

Examination of Grigoriy Budey

1 other weapons?

2 A No.

3 Q So he's digging for his waistband. Did you
4 tell him to -- to stop digging for his waistband?

5 A I heard an officer yell, "Don't do it."

6 Q "Don't do it"?

7 A Yeah.

8 Q When -- but that wasn't Officer Santos?

9 A No, there were --

10 Q Okay. So at -- at that point, had other
11 officers arrived?

12 A Yeah. That is the -- the officer that I
13 can remember on the right of me. There were other
14 officers right there that were next to us as well. I
15 just know that Officer Santos was there.

16 Q Okay. As well as other officers?

17 A Yeah, there were -- there were -- yeah.
18 There were a lot of other officers that were right
19 behind us or right there with us.

20 Q Okay. And when you saw him reaching for
21 his pocket, is that when somebody yelled, "Don't do
22 it"?

23 A Yeah. He was -- I -- I don't know if it
24 was pocket -- it was waistband.

25 Q Or sorry.

Examination of Grigoriy Budey

1 A Like --

2 Q You said, "waistband." I --

3 A Yeah.

4 Q -- I -- I said, "pocket."

5 A I -- yeah. I heard somebody tell, "Don't
6 do it."

7 Q And that was in response to him reaching
8 into his --

9 A Yes.

10 Q -- towards his waistband? Okay. But you
11 didn't actually see what he was reaching for?

12 A I did not, no.

13 Q Okay. How long was it after that command
14 of, "Don't do it," was it that you heard the shots?

15 A As far as gauging time, it would be very
16 hard for me to do. It was right after.

17 Q It was right after?

18 A Right after, yeah.

19 Q Okay.

20 A I heard a -- heard pops.

21 Q And do you recall about how many shots you
22 think you heard?

23 A I don't recall how many. There were more
24 than one, but I don't know how many shots were,
25 exactly.

Examination of Grigoriy Budey

1 Q Did you, yourself, shoot your firearm?

2 A I did not shoot my firearm, sir, no.

3 Q Okay. After the shooting, did you -- were
4 you part of the group that approached the subject?

5 A Yes, sir.

6 Q And did you observe any knife at that
7 time -- time or any other weapon?

8 A Yeah. So when the -- we approached, I got
9 a hold of the subject's arm and got him on his
10 stomach. And when he went on his stomach, I noticed
11 there was a knife right underneath his buttocks. So,
12 like, right there underneath him was a black knife.

13 Q Underneath his buttocks where he had
14 been sitting?

15 A Yes.

16 Q Okay. So you rolled him onto his stomach?

17 A Yes. And that's when I discovered there
18 was a knife right there.

19 Q Okay. And so at the time that you saw it,
20 where was it in relation to his body?

21 A You would say, like, where he -- his butt
22 would be, like, that he would -- was sitting.

23 Q Well, where it was --

24 A Yeah.

25 Q -- right? So once you had rolled him

Examination of Grigoriy Budey

1 over --

2 A Yeah.

3 Q -- where was the knife in relation to his
4 body? Was it next to him? I --

5 A Yeah, it was next to him. Yeah.

6 Q Okay.

7 A Like, right next to him.

8 Q And did you -- besides observing the knife,
9 did you grab the knife or did you direct anybody to
10 the knife?

11 A No. Officer -- I believe Officer Santos
12 picked up the knife.

13 Q Did you see him pick it up?

14 A Yes.

15 Q Okay. So the same knife that he picked up
16 is the same and only knife that you saw?

17 A I -- I believe so, yeah.

18 Q Okay. Did you -- could you describe what
19 the knife looked like? Did you get a good chance to
20 see it?

21 A It was just -- for a brief moment, I saw
22 it. It was like a black folding knife.

23 Q Okay. And do you recall if it was folded
24 or whether it was open?

25 A I believe it was folded.

Examination of Grigoriy Budey

1 Q Okay. Were there any other objects near
2 the knife that you recall?

3 A No, not that I recall.

4 Q Okay. And at any time before the shooting,
5 do you recall seeing a knife on the ground or
6 anything like that?

7 A No.

8 Q And I believe you've already stated this
9 fairly clearly, that you never actually saw the
10 individual retrieve a knife or pull a knife out?

11 A Like --

12 Q Just --

13 A I was concentrating on him, but when he was
14 digging, I could not see what he's trying to produce,
15 what he had or -- I did not see a knife then.

16 Q And you say he was digging towards his
17 right side?

18 A Yeah, I believe. Yes.

19 Q So did you have a clear view of his right
20 side to see what he was possibly digging at or was
21 that away from you?

22 A He was moving so much, so I -- I wouldn't
23 be able to tell you if he was actually straight
24 facing me because at the whole time, he is just
25 moving. He's, like, step forward, step back and side

Examination of Grigoriy Budey

1 to side. He would -- he was not staying still,
2 like --

3 Q Okay.

4 A -- facing me.

5 Q And that was going to be my next question,
6 was: Did he ever advance towards the officers?

7 A Like -- like I said, he -- he didn't, like,
8 charge, but he'd, like, do a step and go back and go
9 side to side.

10 Q Okay.

11 A Would not just -- would not still -- stay
12 still at all.

13 Q And during that whole time, was he sort of
14 digging at his waistband?

15 A At the beginning, he wasn't digging for
16 the waistband.

17 Q Okay.

18 A Afterwards, he started digging.

19 Q And was there a time where the commands
20 changed? Meaning, you were giving him commands to
21 get on the ground originally.

22 A Yes.

23 Q You -- you mentioned that you heard another
24 officer say, "Don't do it."

25 A Yes.

Examination of Grigoriy Budey

1 Q So obviously a different command.

2 A Yes.

3 Q Did you see his demeanor change that maybe
4 would've prompted that change of command?

5 A Yeah. 'Cause from, you know, starting
6 digging in your waistband, that's what the -- that
7 command came up --

8 Q Okay.

9 A -- not to do it, "Don't do it."

10 Q And then it was right after that that you
11 heard the shots?

12 A Yes.

13 MR. OVERSTREET: I -- I'm going to look at
14 my notes, but if anybody has any questions --

15 A GRAND JUROR: The officer that yelled,
16 "Don't do it," could you tell whether that person was
17 to your right or your left?

18 THE WITNESS: To the left.

19 MR. OVERSTREET: Anybody else have
20 any questions?

21 I don't believe I have any further
22 questions. Do you have anything?

23 MR. HANNON: No.

24 MR. OVERSTREET: Okay. I think that's it.

25 Thank you.

Examination of Mark Piombo

1 THE WITNESS: Thank you.

2 MARK PIOMBO

3 Was thereupon called as a witness; and, having been
4 first duly sworn, was examined and testified as follows:

5 MR. OVERSTREET: Go ahead and take a seat.

6 EXAMINATION

7 BY MR. OVERSTREET:

8 Q And once you're seated, go ahead and state
9 and spell your full name, please.

10 A Sure. Mark with a K; last name of
11 P-i-o-m-b-o, Piombo.

12 Q And where are you employed, sir?

13 A Portland Police Bureau, Traffic Division.

14 Q Okay. And how long have you been in
15 law enforcement?

16 A 25 years.

17 Q Okay. And were you working as a police
18 officer on July 30th of 2019?

19 A Yes.

20 Q And you were working as a traffic officer
21 that day?

22 A Yes -- no, that's not correct. I was doing
23 what's called east assist, so I was out of the
24 traffic role and actually a -- a district officer for
25 East.

Examination of Mark Piombo

1 Q Okay. So you just respond to normal
2 patrol calls?

3 A Yes.

4 Q Okay.

5 A Yeah. I'm in a car that day, not on
6 the motorcycle.

7 Q And what were your shift -- what was your
8 hours that day?

9 A 16:00, 4:00 p.m., to 02:00.

10 Q So at the time of the call out of this
11 disturbance at 122 and Glisan, you had just come
12 on shift --

13 A Correct.

14 Q -- shortly before that?

15 A Yes.

16 Q Okay.

17 A I was in the process. Actually, I was
18 clocking in.

19 Q And we're going to talk a little bit later
20 about your use of an AR-15 in this call out, but I
21 want to first talk about your training and experience
22 regarding various weapons including the AR-15. So
23 could you just kind of briefly describe your
24 firearms training.

25 A Sure. I was a California police officer

Examination of Mark Piombo

1 prior to this. I was a pistol instructor, carbine
2 instructor, short-barrel rifle instructor. I was on
3 the SWAT team down there as an entry person. I was
4 assigned an M4 automatic carbine. I was also a
5 sniper. I had a .308 bolt-action sniper rifle that I
6 carried.

7 I carried a rifle on patrol also. And then
8 when I came to Portland, I took the -- the AR-15
9 carbine class and was issued my own personal rifle
10 which I carry in the motorcycle.

11 And also when I go out on patrol in a
12 police car, I pull it from the motorcycle and put it
13 in the rack and take it out on patrol in the car.

14 Q And so --

15 A And I -- I'm sorry. And I qualify,
16 obviously, once a year with the rifle, but then we
17 also shoot -- we usually call it, like, a proficiency
18 course -- quarterly, I believe, sometimes biannually.

19 Q Okay.

20 A Anyway, I keep up on all the mandatory
21 training and qualifications required to maintain your
22 certification to deploy the rifle.

23 Q Is it fair to say not all police officers
24 are qualified to carry rifles?

25 A That's correct.

Examination of Mark Piombo

1 Q Okay. Is it a select few or is it -- is
2 there a certain amount of police officers in
3 Portland?

4 A It's a select few. There's not a -- a
5 specific number at any given time. So not everybody
6 that puts in the -- in for the class is allowed to
7 attend for various reasons, some -- if you're not
8 qualified to attend the class. Some people don't
9 pass the class.

10 Some will have a rifle for a while. They
11 turn it in. They don't want to carry it, the
12 responsibility, the -- own personal reasons. And
13 then, obviously, people retire.

14 Q Sure.

15 A So the number of officers that are on the
16 street at any given time who are qualified to carry
17 this rifle stays very, very low.

18 Q Okay. And what would be the purpose just
19 generally that you would respond to a call with a
20 rifle?

21 A Well, that would go into the -- the primary
22 reasons are that -- to carry a rifle, which is that
23 the -- it's a tool and the rifle is designed for a
24 longer stand-off distance and greater accuracy
25 in combination with the round, itself, is more

Examination of Mark Piombo

1 effective quicker.

2 So if there's a -- a call where a pistol is
3 not the right tool, the rifle will supplement that.
4 So a lot of times, the rifle will be used in
5 combination with less lethal. And what it is, is it
6 allows for us to extend our ranges 'cause distance is
7 safety.

8 And then in -- if there's an event in
9 which you don't have the distance for safety and
10 you're closer, the AR-15 with the 5.56 round is more
11 powerful than a pistol round. It's more effective in
12 stopping somebody quicker due to the ballistics of
13 the cartridge, itself.

14 Q Okay. And you sort of touched on this, but
15 it -- it allows you to create a greater distance than
16 a -- a handgun would?

17 A Yes.

18 Q Okay. And so when you responded to this
19 call that originated at 122nd and Glisan, did -- your
20 initial response, did you feel this was a scenario
21 where you were going to need an AR-15 or did that
22 develop as time went on?

23 A As the call was coming out, I could hear
24 that it was a -- a very dynamic situation and the
25 location, it was on the street at the time.

Examination of Mark Piombo

1 And I heard the person was -- was armed
2 with an edged weapon of some sort and that -- that --
3 basically outlined that that was the kind of call
4 that an AR-15 would be there if needed.

5 So due -- in that scenario in particular,
6 the distance is important, but also the precision of
7 the rifle, itself. It has a red dot hologram sight
8 system on it, so it will allow for far greater
9 precision than a handgun.

10 And due to the fact that you're out in
11 the streets and it's people -- a lot of people around
12 and commute hour and things of that nature, you're
13 responsible for every round. And so that would be a
14 more precise or more precision tool if needed.

15 Q And would it also possibly allow you to
16 shoot less rounds --

17 A Yes.

18 Q -- as opposed to a handgun?

19 A Yes, 'cause it's more effective.

20 Q Okay. And why, Officer, did you determine
21 that an AR-15 might be necessary given that it was a
22 bladed weapon of some sort? What's -- what's the
23 necessity to meet distance in those scenarios?

24 A So when I said it was dynamic, I meant that
25 it was dynamic in that I could hear that -- it's --

Examination of Mark Piombo

1 it's -- on the radio, there were blurbs and pieces on
2 the radio that I could hear coming in is that the
3 subject, the armed subject, was moving around a lot
4 and that also the fact that an edged weapon can be
5 thrown.

6 So the -- that's -- that's an issue, so you
7 want to stay, you know, back as far as you can.
8 So -- and not to mention that there's all sorts of
9 citizens out there running around in -- in the area
10 and this -- this sort of scenario could -- could
11 potentially get worse as time went on with a
12 possible -- based upon my experience -- and this
13 isn't something I heard over the radio, but we
14 started to meet that criteria where there could be an
15 attempted carjacking, there could be a -- a hostage
16 situation.

17 It just could -- it just -- there's -- the
18 potential for things to get a lot worse was there, so
19 felt the AR-15 was an appropriate tool to be on the
20 sideline there if needed. But there was --
21 obviously, there was other options that were in play.

22 I could hear other officers go in there
23 that are assigned with different tools to try to deal
24 with that scenario, so that would be -- be one of
25 many options. Of course, it's -- it's -- it's way up

Examination of Mark Piombo

1 the chain --

2 Q Sure.

3 A -- of -- of options, but it's there if
4 needed.

5 Q And when you first arrived in the area,
6 where, specifically, did you go?

7 A I was just south of the actual scene
8 location where the officers had primarily respond --
9 responded.

10 Q Okay. So you weren't one of the initial
11 responding officers. You arrived at -- shortly
12 after?

13 A Correct. So when I arrived, I could see
14 that there were police cars and police officers ahead
15 of me. I stopped basically in the middle turn lane
16 area of the road and -- 'cause I didn't want to get
17 too close and clutter. I wanted to stay back 'cause
18 I knew things were going on.

19 And then when I started to get out of my
20 car, I realized that the subject was actually moving
21 in my direction and was -- that it was becoming
22 mobile really quick. And I was stopped and I was in
23 a position where I had to make a choice of getting
24 out or driving or --

25 Q And what --

Examination of Mark Piombo

1 A I had to do -- I had to do something.

2 Q And what did you decide --

3 A I --

4 Q -- to get out or to drive?

5 A I decided to get out. I could see that the
6 subject had a hatchet and was very dynamic, yelling
7 and screaming and it wasn't -- the situation wasn't
8 contained. There was other people around, civilians
9 in buildings and cars. And so I was committed. I
10 was there.

11 I felt that I had enough distance that I
12 could actually get the rifle out of the rack, get it
13 secured, get out of the vehicle, charge the rifle
14 and -- and be ready to deal with the situation.

15 Q And by, "charge the rifle," do you mean
16 load a round in the chamber?

17 A That's correct.

18 Q Then did you attempt to make contact with
19 the individual --

20 A I --

21 Q -- after you had your rifle?

22 A I did as I stepped out and I charged my
23 rifle and I got ready. I had the sidearm and got
24 everything up and ready to go. He was basically to
25 my left in the lane of traffic, not on the sidewalk,

Examination of Mark Piombo

1 but actually in the street.

2 And he had -- he was at an oblique angle
3 and he was moving and stopping and yelling and
4 screaming and coming basically kind of toward my
5 direction. So I actually started to move lateral
6 also to try to keep a -- keep -- try to keep and
7 maintain a -- a -- a gap so there could be -- so
8 there could be some communication.

9 But I could still try to contain and
10 control the situation in addition to what the other
11 officers were already doing, which was giving orders
12 and yelling and trying to communicate with him.

13 Q And so you're moving sort of parallel with
14 him southbound on 122nd?

15 A Kind of.

16 Q Okay.

17 A He was a little bit to my right, not
18 exactly parallel. I -- at some point, there might
19 have been some parallel --

20 Q Okay.

21 A -- yeah.

22 Q And --

23 A I didn't want to get trapped between my
24 car. I didn't want to create a situation where I
25 couldn't move.

Examination of Mark Piombo

1 Q Sure. And as you approached Burnside, did
2 you kind of maintain that same distance and attempt
3 at following him?

4 A At -- at one point, there was some orders
5 given. There was a beanbag -- or not a beanbag, but
6 a 40-millimeter less lethal deployed. And then there
7 was a second 40-millimeter less lethal deployed and
8 then the subject turned and ran southbound.

9 Q And when he -- when the less than lethal
10 were being deployed, did you still have your AR-15
11 available to you?

12 A Yes.

13 Q And was it trained on the individual or
14 were you just at the low ready?

15 A At one point, I -- I came up to engage
16 because the distances were getting close and the
17 subject was very animated and yelling and not
18 complying and was clearly armed with a hatchet.

19 But then the less lethal came into play, so
20 he reacted to that, diverted his attention from me to
21 the less lethal and the officers. And they were
22 giving him orders. If I remember, they were telling
23 him, "Get down. Drop it," things of that nature.

24 And, at some point, he did drop the
25 hatchet. There -- there was more less lethal

Examination of Mark Piombo

1 deployed 'cause he was not complying. And then he
2 took off running.

3 Q So in your opinion, especially since
4 you're -- you have an AR-15 with you, clearly lethal
5 force --

6 A Mm-hmm.

7 Q -- in your opinion, when -- when the less
8 than lethal doesn't really work, doesn't gain
9 compliance by the individual, does that change your
10 analysis of the situation regarding the need for
11 lethal force?

12 A Yes. It does because what it shows me is
13 that the person is not complying. They're continuing
14 to -- to -- they're continuing the chain of events.
15 I had personally also given him orders and at one
16 point, he looked right at me. He said something --
17 he said something back, actually.

18 I don't recall, but it was kind of yelling
19 back and forth. So I know he -- he heard me because
20 he reacted to me and turned his face right at me and
21 was yelling things.

22 And then the fact that other orders were
23 being given and that there was a verbal interaction
24 and -- to me, it meant that that person was not
25 complying because they didn't want to, not because he

Examination of Mark Piombo

1 couldn't hear or understand what was going on based
2 on what was being said by the officers.

3 And then less lethal being deployed and
4 then not laying down on the ground, put their hands
5 up or showing some kind of cooperation is -- is a red
6 flag, is how I'd describe it, because it's -- the
7 situation is continuing. You know, we -- we're using
8 these standoff tools of less lethal 'cause the -- the
9 40-millimeter is just that.

10 It gives us that distance to try to disarm
11 somebody, get compliance. But that was not being
12 effective or working the way we were hoping it would
13 be or how it does on most occasions. And, now, the
14 person has taken off and run away. So it raises the
15 gravity of the situation.

16 Q Do -- in your opinion, does it raise the
17 likelihood that deadly force might be more necessary
18 after less than lethal doesn't work?

19 A I would say the answer is yes and no. And
20 the reason is, is because at any given time, the
21 situation could come back down.

22 Q Sure.

23 A Other things could happen. There's plenty
24 of times in -- that I've thought that something was
25 going to ramp up and it ramped down or I thought

Examination of Mark Piombo

1 something was going to ramp down and it ramped up.
2 So there has to be a continual evaluation process, if
3 not every tenth of a second, every second.

4 And, I mean, it's right down to body
5 language, what a person said or what they say, how --
6 how they're running, where they're running, where
7 they're going to, you know, like, are they turning
8 back and trying to listen, trying to comply or not or
9 are they continuing to fight?

10 I mean, there's just -- there's too many
11 factors involved. So I would say that, based upon
12 the information I had at that moment from what I
13 observed and stuff like that, you're hoping that it
14 ramps down, but I didn't see any indicators that it
15 was going to.

16 So I felt that nothing had changed, that
17 there was still -- there was still significant danger
18 to myself and others and the -- and the public in
19 particular. And not only that, I chose not to chase
20 on foot. I chose to go back to my car and pursue
21 in -- in the vehicle.

22 And as I was doing so, there was officers
23 that were on foot taking off. And I heard somebody
24 say that he was armed with a knife.

25 Q Okay. And I -- that's exactly what I

Examination of Mark Piombo

1 wanted touch on, was: Did you observe that he had
2 discarded himself of the hatchet?

3 A Yes.

4 Q Okay. You saw him --

5 A Yes.

6 Q -- the hatchet --

7 A Right.

8 Q Okay. But after that -- you just said
9 this -- you heard over the radio that the subject
10 also still had a knife?

11 A No, I didn't hear it over the radio.

12 Q Oh, I'm sorry.

13 A Yeah. I heard it -- two officers --
14 subject ran south. I turned and saw him running off.
15 I turned, I made a -- I started to pursue, then
16 decided not to, decided to go to the car. In my
17 mind, well, hopefully he'll just run down the street
18 and get tired and I'll just follow in the car.
19 That'd be great.

20 So I didn't see there was -- you know, I
21 got all this gear on and it doesn't lend itself to
22 running very well, let alone keeping up with
23 somebody. And especially if it gets prolonged, it
24 just doesn't allow you to be effective.

25 So I turned to head back to the car, so I

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1 turned north to start walking back to the car. Two
2 officers -- and I don't remember who they were --
3 passed me going south following the -- the subject.
4 And as they went by, one of them said that he is
5 armed with a knife.

6 And I said (indiscernible) looking at him
7 'cause he's concentrating on getting the car open and
8 getting the rifle and then doing all that stuff.
9 I said, "Get that over -- that out over the air. The
10 other officers need to know that," 'cause that is a
11 very, very important piece of information that can
12 change the tone of everything.

13 And so I don't recall if it was broadcasted
14 over the radio because, at that point, I'm trying to
15 get the car started, get the rifle safely secured, be
16 able to turn around and try not to crash into
17 somebody else or whatever and then follow up on the
18 direction which the defendant went.

19 Q Okay. And did you do that?

20 A I did.

21 Q And where did you go?

22 A About two blocks south of where we were, I
23 turned west. I forgot the name of the street.

24 Q Okay. Is it the street that the apartment
25 complex is on?

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1 A It is.

2 Q Okay. So Ash Street, does that sound
3 right?

4 A Ash Street, that's right. It was Ash
5 Street.

6 Q But you turned on the street where the
7 apartment complex was?

8 A Yes.

9 Q Okay. And where did you go?

10 A I drove directly to the front of the
11 apartment complex and then proceeded to get out of
12 the patrol car with my rifle then.

13 Q Okay.

14 A Yeah.

15 Q And with your rifle, did you proceed down
16 this corridor as well?

17 A I did. I had been to this apartment on
18 numerous occasions, so I knew the -- I knew the
19 layout of the whole place. So, at that point -- you
20 asked earlier about urgency situation. There was a
21 bunch of things going through my head. One, there's
22 an armed subject who had been hit with less lethal
23 once and then a second time.

24 Officers told me he was armed with a knife.
25 He was not complying. He took off running. And I

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1 knew this apartment -- because I'd been there before
2 on various different things -- that there -- there's
3 always people hanging out, especially right out front
4 and everything.

5 I've -- I've talked to many, many people,
6 just hung out with people and stuff and I've actually
7 chased people on foot through there. But as soon as
8 I saw where this was going, I -- I thought, this is
9 has just gotten worse because there's people out and
10 about and this is an armed subject with a knife.

11 So the urgency actually went up for me. I
12 got out of the car and I ran. I didn't even use the
13 stairs. I think there was another officer walking
14 across the stairs. I actually jumped across the
15 wheelchair -- I think it's a wheelchair access ramp
16 into the -- kind of there's a foyer, courtyard area,
17 ran back there as fast -- as fast as I could.

18 It was a warm day and people leave their
19 apartment doors open and stuff like that. And I felt
20 that the danger had now just elevated the potential
21 for things to get worse (indiscernible).

22 Q I wanted to talk about that a little bit
23 more because you're familiar with this apartment
24 complex. When you've been out there before, you
25 stated that there's people often hanging out. Have

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1 you known people in this area that leave their
2 doors open?

3 A Yes.

4 Q What about families and children? Is there
5 any -- have you seen children there before?

6 A Many times, yeah.

7 Q And is this an area, these corridors, where
8 people can kind of just freely move about, you don't
9 have to worry about traffic or anything like that?

10 A Correct. As a matter of fact, I've sat out
11 on the sidewalk there and talked to people, just
12 hanging out on, you know, warm days and whatnot and I
13 can hear children playing in the background, so --

14 Q And so you said, with that knowledge, that
15 that created more urgency for you?

16 A Yes, absolutely.

17 Q What were some of the possibilities that
18 you thought this could turn into given that you have
19 an armed subject running from police in this
20 particular complex that you were attempting to
21 prevent?

22 A So there -- in my opinion, there -- well,
23 it's a fact. There was immediate threat to the
24 safety of the civilians that are usually always in
25 the area, so children, adult.

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1 And that the subject was no longer just
2 running down the street; that he had gone into an
3 area where it is a small space, not open to the road
4 and a high density of people.

5 So the -- to me, it's just -- it's an odds
6 thing. Now, the odds have gone way up that some --
7 some victim -- somebody's going to be victimized by
8 the actions of this subject who is armed and not
9 complying with the police and is clearly angry.

10 Q And so when you entered this corridor, were
11 there other officers in the corridor already?

12 A There was.

13 Q Okay. So did you have a clear view of the
14 subject at that point?

15 A As I approached, I could see the back of
16 three or four officers and I could hear commands
17 being given. And as -- as I moved into the corridor,
18 I could hear those commands and I could hear yelling.
19 I could hear the subject yelling.

20 I could hear the urgency in the -- the
21 voice of the subject and I could hear the officers
22 giving clear commands. So as I moved up, it was
23 almost like looking through a fence. I could see the
24 officers' backs and then I could see the subject
25 behind them.

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1 And I could see him very animated with his
2 fists and, you know, I could just catch glimpses of
3 his body. And I could -- and I could tell that, even
4 without a clear, unobstructed view, that he was --
5 that it wasn't compliance and I could hear there
6 wasn't compliance.

7 So I knew, basically -- you know, he wasn't
8 laying down, hands weren't up kind of thing and it
9 was -- it was a continuing behavior pattern that I
10 observed out on the street that was still going on
11 here. So I knew that I needed to get there with the
12 rifle and that that was what was going to be needed.

13 Q And we'll get to the contact in just a
14 second, but you being familiar with this apartment
15 layout, was he near an area where he could have
16 gotten out of there? Meaning, was the only way out
17 back towards the officers or could he have some sort
18 of other egress?

19 A So to my right as you go in there, there's
20 the open quad area. And right out that way, there's
21 stairs that can get you up top. Behind him, there's
22 a fence that -- you know, it's just a -- a regular,
23 like, wood-slatted fence, not, like, a chain link or
24 a barbed wire or anything.

25 He could get up over that. And there's --

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1 I -- I have -- I've had people run from me and people
2 know where this area is and I didn't catch them. Me
3 and another officer, Officer Bowman (phonetic) in
4 particular, we had a guy take off in a car and run in
5 there (indiscernible). He was able to escape, never
6 saw him again. But, anyway, there -- yeah, there --
7 there was options.

8 Q Yeah. A means to continue attempting to --

9 A Right.

10 Q -- run from the officers?

11 A Absolutely.

12 Q Okay. So you said he's kind of animated.
13 He's still doing the same things. It doesn't appear
14 that -- as you put it earlier, you know, things can
15 ramp up, things can ramp down, things can kind of
16 stay the same. How would you classify where he was
17 at that moment?

18 A I -- I would say that nothing had changed
19 in regards to his lack of following orders, his --
20 his willingness to indicate that he was surrendering,
21 giving up, showing his hands, complying, being less
22 of a threat to self or others.

23 Q And at any point, did you see him display a
24 weapon while in the corridor or attempt to retrieve
25 a weapon?

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1 A What I saw was him reach into his front
2 waistband and I could see that there was something in
3 his hand that he was frantically pulling to -- to get
4 it out. And, obviously, moving around a whole bunch.
5 So as I came in, I found, like, an open spot between
6 those officers.

7 I started up with the rifle. My safety
8 was off, finger went to the trigger. I came up on
9 the sight, picked my sight and was sort of a low
10 (indiscernible). I came up with being more than, you
11 know, just there, but realizing that his actions were
12 indicating that he was arming himself.

13 And officers had said he had a knife and I
14 could see that there was something that was -- that
15 he was pulling, getting, but he was acting very
16 animated and it wasn't just one motion. It was just
17 multiple pulling. So, basically, I figured it was a
18 knife and that that's what was going to happen.

19 So I was basically, for all intents and
20 purposes, going to shoot him and intended on doing it
21 until, suddenly, shots rang out to my left. And it
22 startled me and -- because it seemed very muffled.
23 It didn't -- it sounded like a less lethal as far as
24 the sound, which -- it's -- it's kind of weird.

25 Because of the close proximity, it -- I

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1 mean, usually, you're hearing is ringing. So -- but
2 I -- I was up and I was ready and I was aiming. I
3 was looking -- looking specifically, like, trying to,
4 you know, get everything dialed in.

5 And as it happened, I then dipped the rifle
6 and looked to my left because it just didn't seem
7 like a -- it was a pistol round. So -- besides, you
8 want to see -- if -- if it is less lethal, you want
9 to see if it's effective, but -- 'cause everything's
10 happening in tenths of a second.

11 And I realized that it -- it was a lethal,
12 that it was a pistol, so then I came back up again
13 and I was looking at the hands. But then I could see
14 that the rounds were effective and -- and he was --
15 clearly, he was changing what he was doing.

16 So he was clearly being hit. I could see
17 rounds hitting him. And I could see that him being a
18 threat was diminishing quickly, so I didn't fire
19 because it appeared that the fight was leaving him
20 pretty rapidly. So then he began to slow down and
21 kind of slump and kind of lean over and go to the
22 ground.

23 Q So, at that point, did you determine that
24 it was not necessary for you to maintain covering him
25 with your AR?

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1 A Yes.

2 Q And, Officer, up to the point that the
3 shots were fired, did you feel that the situation was
4 going to warrant you having to actually discharge
5 your firearm?

6 A Yes. I -- I believed 100 percent that --
7 that I was going to shoot. You don't put your finger
8 on the trigger -- it's called master grip.

9 Keep your finger off the trigger because if
10 something startles or you do something -- somebody
11 runs into you, there's sympathetic fire, which means
12 you hear something else -- somebody else shoot or
13 there's a door slam or a less lethal go off and
14 something's -- a startling motion can make your
15 finger twitch and the gun can go off.

16 So you only put your finger on the trigger
17 when you have the intent to fire. It's part of the
18 sequence of events that lead to, you know, pulling --
19 literally pulling the trigger. And I was -- I was
20 there, so --

21 Q Your finger was on the trigger?

22 A Yeah, it was. So -- and I specifically
23 aimed at a point on his body. And so --

24 Q And that point on his body being center
25 mass, so his torso?

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1 A Correct.

2 Q After the shots were fired and you saw the
3 individual go down, you now are thinking it's not
4 necessary to use your rifle at that point. So what
5 did your role transition to at that point?

6 A There was a -- a moment that everything
7 just got quiet and nobody was saying anything.
8 Everybody stood there and it was just -- you know,
9 realized that -- that his -- that he had been shot.
10 He needed medical attention.

11 So I immediately got on the air and
12 requested -- but I don't know -- I'm not clear on
13 exactly the order. Anyway, I think it was I advised,
14 "Shots fired. Officer involved and officers hurt.
15 Suspect's down. Code 3 medical," meaning lights and
16 sirens as fast as they can get here.

17 And I -- usually, we stage medical, but I
18 told them, "Send them right in," because the -- the
19 threat was gone, so it's safe for them to come in.
20 And then I requested a medical kit. Each officer's
21 car has a medical kit. It's a red bag.

22 And it has -- it -- we all carry
23 tourniquets, but it has more tourniquets in it. It
24 has gauze. It has this powder stuff that stops
25 bleeding and all that stuff. So it -- it's primarily

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1 for puncture gunshots wounds, neck wounds, stuff like
2 that, car wrecks, stuff like that.

3 So I told -- I told somebody to bring that
4 in immediately. Then -- then, basically, I realized
5 that a plan had to be formulated. I -- I remember
6 running by somebody who had a shield, so I said, "Get
7 the shield up here. Somebody glove up," and started
8 kind of giving tasks to everybody so we could move as
9 a team and get up on him and get him first aid as
10 soon as it was safely possible.

11 And then I told somebody to get ready with
12 a tourniquet, "We got to get -- get a tourniquet,"
13 'cause I remember his arm getting shot up. And so
14 then I had everybody move as a team. I stayed on
15 lethal because AR-15 is -- it's awkward.

16 You sort of can't holster it, really. I
17 mean, you have to sling it or it's flinging around,
18 so I stayed on lethal. Either I told somebody to get
19 the cuffs ready or they said they had their cuffs
20 ready. We moved up as a team, we got up on him and
21 we got him handcuffed.

22 And then other officers moved in. I backed
23 off with the rifle. I remember a tourniquet coming
24 out. I remember somebody had the -- the red medical
25 kit and it was just a bunch of officers on giving him

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1 first aid --

2 Q And we've --

3 A -- and that was it.

4 Q You know, we've gotten --

5 A (Indiscernible).

6 Q -- some testimony about --

7 A Okay.

8 Q -- the actual medical that was applied.

9 And -- and you weren't actually really necessarily
10 applying medical yourself, correct?

11 A No.

12 Q Okay.

13 A I backed off.

14 Q At some point, did you turn your attention
15 to who you believed had actually fired the rounds,
16 the police officer who fired the rounds?

17 A Yes.

18 Q Okay. And what took your attention to him
19 and what did you do once you contacted him?

20 A Officer Gary Doran was to my left. His --
21 when shots rang out, I glanced over, the rifle came
22 down. I realized he was firing and I came up to
23 engage, realized it wasn't necessary at that point
24 for me to do so.

25 Prior to me assembling the team and moving

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1 forward, you know, verbally assembling, but -- I
2 told him to holster his gun, so he did. And then he
3 actually -- to me, it seemed like he started coming
4 forward and I told him -- I put my hand out and
5 stopped him and I said, "Stay here."

6 And I said, "Just stay." And so he did, so
7 the team went forward, did as I described. And then
8 when we turned around and came back, he was still
9 standing there. So I grabbed him physically and I
10 turned him around and I escorted him out.

11 Q And I don't mean to interrupt you, but
12 where -- why did you stop him from assisting?

13 A Because the other -- there was plenty of
14 officers there who are trained extensively on what
15 they need to do and how they need to do it. The
16 tasks had been divided up and it was all being done.

17 Because he had just deployed lethal force
18 by shooting his -- his pistol, it's a very dramatic
19 event, these are very close quarters, that, you know,
20 it has a serious effect on, you know, people. And so
21 I felt that it wasn't -- it wasn't the right thing.

22 And even though it seemed like he was
23 trying to continue to do what he was supposed to do,
24 that I don't think it -- I didn't think it was
25 necessary for him to get there and try and help out

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1 (indiscernible) do it.

2 He was -- definitely, at that point, it
3 was traumatic. Anybody is compromised after that and
4 I felt that the best thing for him was to get him
5 turned around and get him out.

6 And I knew, you know, paramedics would be
7 coming in at any moment and stuff like that and just
8 remove him from the scene and let the other officers
9 who are going to definitely have a clearer thought on
10 what needs to be done and how to do it and when to do
11 it just stay out of their way and let them do
12 their thing.

13 Q And, Officer, have you been through
14 training and possibly your own experience that when
15 deploying a firearm in a tense situation like that,
16 that it does have some sort of effect on the shooter
17 to where they may not be able to perform their tasks
18 afterwards, at least as well?

19 A Mm-hmm. It has a -- yeah, it does.
20 It's -- it's a -- because it's super high stress.
21 And it's -- you're just not going to be able to think
22 clarity of thought on how to -- it's going to be more
23 difficult for you to apply a tourniquet than
24 somebody else.

25 So, obviously, if there was less officers

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1 there and these medical things need to be done and
2 you -- and I -- and he was needed, clearly, he
3 would've got in there and his training would've taken
4 over, I 100-percent believe and he would've done
5 whatever he was -- he needed -- was supposed to do.

6 But due to the fact that we had plenty of
7 resources that were going to be more effective and
8 timely, it was better for them to do what they needed
9 to do and he didn't need to be in that situation and
10 tasks get divided up and things get done better when
11 you do it that way.

12 Q And where did you walk with Officer Doran?

13 A Straight out back to the street, walked
14 over to my patrol vehicle and put him in the
15 passenger's front seat of my patrol vehicle. And
16 then I quickly backed it out of -- from the residence
17 because I knew fire would be coming in, ambulance.
18 And the street was just plugged.

19 So I got my car out of there, opened it up
20 and -- for the -- the ambulance to have to come in
21 there and -- and give them room. And then I figured
22 just moving him away from the scene was probably
23 better, too.

24 Q And did he remain in your car?

25 A He did, yeah.

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1 MR. OVERSTREET: I'm going to go over a
2 couple of notes. If anybody has any questions --

3 A GRAND JUROR: Yeah. So when you were
4 raising your weapon, did -- how did you feel about
5 the back -- backdrop? I'm -- I'm interested in
6 the -- the ballistics of your weapon as, like, going
7 through walls and stuff.

8 THE WITNESS: Believe it or not, the 5.56
9 round in combination with the federal ammo that we
10 use actually has less penetration than --

11 A GRAND JUROR: Okay.

12 THE WITNESS: -- a nine millimeter. It's a
13 55-grain bullet and it's -- it fragments. And the
14 pistol rounds are 124-grain bullets and they're
15 hollow points. And they tend to stay together
16 because of the heavier weight and mass. They tend to
17 fly truer and straighter through objects.

18 And they -- they will actually penetrate
19 more than the 5.56 round. In addition to that, what
20 was behind there was fencing and exterior wall
21 structure of the building, itself.

22 So -- and the close proximity of where I
23 was standing and where the suspect was standing, I --
24 I felt that -- that the distance would allow me a
25 very precision shot.

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1 A GRAND JUROR: Thank you.

2 THE WITNESS: Sure.

3 A GRAND JUROR: (Indiscernible).

4 THE WITNESS: Yes.

5 A GRAND JUROR: So you had mentioned that
6 you were ready to shoot and you chose his torso as --

7 THE WITNESS: Yes.

8 A GRAND JUROR: -- the point of shooting.
9 Is there a reason why, in this kind of circumstance,
10 you would choose that versus a less vital part of
11 the body?

12 THE WITNESS: Yes, it is. Because when you
13 fire your round, you're 100 percent responsible for
14 it. And, basically, you're trying to aim for the --
15 the largest body mass target area. So if you aim for
16 the biggest possible area, if you're off to the left,
17 to the right, up or down, most -- most likely, you're
18 still going to get a hit.

19 And so there's -- there's that. And the
20 other thing is, because firearms are a deadly-force
21 tool, if there's -- if you shoot that, you have to --
22 you have to come to terms and realize that it's
23 because of how -- how effective a gun is that it --
24 more likely than not, it's going to kill somebody.

25 If you were to shoot somebody in the leg,

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1 there's all sorts of arteries, like, in the groin
2 area and -- that it's a matter of seconds somebody
3 can bleed out. So there's -- there's no guarantees
4 that, you know, shooting an extremity is not going to
5 kill somebody.

6 And so if you have that sort of doubt on
7 whether you should deploy it or not, then you should
8 not. So that's why we just aim center and -- and
9 everything is -- there's a lot of stress involved and
10 a lot of moving and, you know, shadows and so it's --

11 A GRAND JUROR: Okay.

12 THE WITNESS: -- it's very difficult.

13 BY MR. OVERSTREET:

14 Q And, Officer, you actually -- you're
15 trained to shoot center mass; is that correct?

16 A Correct.

17 Q Okay. You're not trained to ever shoot at
18 somebody's legs or arms --

19 A No.

20 Q -- or shoot a gun out of somebody's hands
21 or something like that?

22 A No. And I've attended sniper schools,
23 multiple sniper schools. And then -- and that's a --
24 you know, a precision rifle. And not one of those
25 schools with various instructors, military police

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1 (indiscernible) not ever was there any drills,
2 recommendations or training that would have you
3 shoot for a gun or a hand or anything like that.

4 It's just -- it -- it -- it's not -- it's
5 just not what occurs. It's just --

6 Q Is that true for rifles and handguns?

7 A Yeah, (indiscernible).

8 A GRAND JUROR: How many feet were you and
9 the other officers away from the subject?

10 THE WITNESS: Let's see. I would guess
11 about 30 feet, 35 maybe, if that.

12 BY MR. HANNON:

13 Q And -- I'm sorry to interrupt on that.
14 That would be an estimate?

15 A Mm-hmm.

16 Q Is that an estimate just from your position
17 or everybody's position?

18 A That's an estimation from my position, but
19 we were in a line. We were all in a shoulder to
20 shoulder kind of, ish. And I'm -- I'm really
21 guessing, to be honest with you.

22 A GRAND JUROR: Thank you.

23 THE WITNESS: That's my best guess.

24 MR. OVERSTREET: Question from a grand
25 juror?

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1 THE WITNESS: Yes.

2 A GRAND JUROR: In your 25 years in law
3 enforcement, have you encountered a number of people
4 who are impaired or high on meth?

5 THE WITNESS: Yes, I have.

6 A GRAND JUROR: Would you say that, in your
7 opinion, this subject was typical of the kind of
8 person you encounter when they're high on meth or was
9 it worse or not as bad as far as the behavior?

10 THE WITNESS: It would be an assumption --

11 A GRAND JUROR: Yeah.

12 THE WITNESS: -- on my part --

13 A GRAND JUROR: Yeah.

14 THE WITNESS: -- that there was a chemical
15 behind that stuff, but as far as the behavior goes,
16 it was extreme.

17 A GRAND JUROR: Okay.

18 THE WITNESS: Yeah. It was extremely
19 angry, violent and just outrageous and screaming and
20 yelling and face -- I could still see his -- his
21 face. It was just so tense. Even when I yelled at
22 him out on the street and he made eye contact with
23 me, it was -- he was angry.

24 BY MR. HANNON:

25 Q To add to that question, when you've come

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1 across people in your years of experience who are
2 under the influence of methamphetamine through the
3 continuum of use-of-force tactics, have you come
4 across somebody who's under the influence of
5 methamphetamine who has responded to various forms of
6 deescalation whether it's verbal commands or threats
7 of less lethal or -- then obviously up the continuum
8 to lethal, have people, despite being under the
9 influence, been compliant as a result of those
10 various methods?

11 A Yes. I -- I've dealt with quite a few
12 people that have been so high on meth that they're
13 just sweating profusely and just, like, can't hold
14 still. I mean, they can't sit down. They can't do
15 nothing. I mean, they are, like, picking scabs on
16 their face.

17 They are just doing the craziest stuff
18 you've ever seen, you know, like, tightening their
19 belt just out of control, I mean, just completely out
20 of control. I mean, I can't even describe how out
21 of control. And there's times we've put gloves on
22 and they're like, "Hey, how about going to the
23 hospital? You want to go to a hospital?"

24 And they're -- and they freely and
25 willingly -- you can talk them right into it and they

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1 lay on the gurney and -- to the point where even the
2 ambulance drivers are putting soft restraints on
3 'cause they're like, this guy can't hold still. But
4 we're able to talk them into it and never even have
5 to put hands on them. So, yeah, there's every
6 variation in the book.

7 I've -- I -- there's people that have been
8 on meth that I've -- I've pointed my firearm at and
9 told -- you know, told them, "Get down on the ground
10 or you're going to get shot," all sorts of stuff like
11 that. They were able to comply to that and we're
12 able to cuff them and stuff, so -- yeah.

13 MR. OVERSTREET: Okay. Other --

14 A GRAND JUROR: Yeah.

15 MR. OVERSTREET: -- question. Yes, sir.

16 A GRAND JUROR: So immediately after the
17 shots, my impression is you took control of the
18 situation. Was that your role?

19 THE WITNESS: It became my role. Just
20 it -- it was -- it was the next thing to do. And
21 it -- there was -- there was just that moment. And I
22 don't honestly know if it's just in my head where,
23 you know, things speed up, slow down. But it just
24 seemed like everything stopped.

25 And then I just -- based upon training and

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1 stuff, I -- I -- I knew what the next step was. And
2 the next step was to make the scene safe, provide
3 first aid, get medical to him, secure the scene. And
4 we had everything we needed to do that quickly and
5 efficiently and even had that shield there, which was
6 surprising.

7 I just -- it popped into my head as I
8 thought, what do we do next? And so I -- I thought,
9 if I could just -- with all these people, you could
10 just get this done now and get up there quickly. So
11 it just happened.

12 A GRAND JUROR: Thank you.

13 MR. OVERSTREET: Any other questions?

14 A GRAND JUROR: Yeah, I have one more.
15 I'm sorry.

16 MR. OVERSTREET: Sure.

17 A GRAND JUROR: Do you feel like, more than
18 anything, was the police officers' safety at risk or
19 the public and the people around him in case -- in
20 case he's got a gun -- or not a gun. I'm sorry.

21 THE WITNESS: In my opinion --

22 A GRAND JUROR: Go ahead.

23 THE WITNESS: -- it was, I -- I would say,
24 both. I would say that -- a little more toward
25 public because the public doesn't have the tools we

Examination of Mark Piombo

1 have to deal with a violent, dangerous confrontation.
2 So they're going to -- they're more likely to become
3 a victim of violence.

4 So -- but I felt that, at that point, in
5 that situation, that the public was at danger. I was
6 at danger. The officers I work with were at danger,
7 that he was posing a significant threat. You know,
8 he previously had a hatchet, which is a pretty
9 serious weapon.

10 And then officers said he had a knife and
11 he's now -- he's lost that one weapon and, now, he's
12 trying to rearm himself, which is just like, oh, no,
13 this is -- this is not good. And, I mean, got one
14 weapon from him and, now, he's trying to get another
15 one.

16 I mean, it just speaks volumes to where
17 this is going and -- and the -- the risk and the
18 dangers. So, yeah, everybody was just unfortunate.

19 MR. OVERSTREET: Any other questions?
20 Okay.

21 THE WITNESS: Thank you.

22 MR. OVERSTREET: I think that's it.

23 MULTIPLE GRAND JURORS: Thank you.

24 MR. HANNON: We're going to reorient our
25 map. But let me (indiscernible) eyewitnesses or

Examination of Mark Piombo

1 civilians to the events surrounding it, so if we
2 could just reorient that real quick.

3 Great. Thank you. If you could just stand
4 next to that chair and raise your right hand, we'll
5 swear you in. Can you stand up real quick and raise
6 your right hand?

7 THE WITNESS: I'm sorry.

8 MR. HANNON: That's okay.

9 **ESTHER VERBRUGGEN**

10 Was thereupon called as a witness; and, having been
11 first duly sworn, was examined and testified as follows:

12 MR. HANNON: All right. Can you first --
13 and go ahead and have a seat.

14 **EXAMINATION**

15 BY MR. HANNON:

16 Q And can you first start by stating and
17 spelling your name for the record?

18 A My whole name or just --

19 Q Yeah.

20 A -- my -- okay.

21 Q Well, you don't have to spell your whole
22 name. What's your -- what's your name?

23 A Esther Verbruggen.

24 Q Esther, E-s-t-h-e-r?

25 A Yes.

Examination of Esther Verbruggen

1 Q And how do you spell Verbruggen?

2 A V as in Victor, e-r-b as in boy,
3 r-u-g-g-e-n.

4 Q Thank you. And just to start off with, how
5 did you come to be involved or know to call into the
6 police and be interviewed about this incident?

7 A Well, first, I had seen the guy trying to
8 break into a car, but then I saw a news report saying
9 that the guy who was in that parking lot trying to
10 break into a car was the same guy who got shot.
11 And --

12 Q And in that news alert, was there any
13 information requesting additional people, if they
14 witnessed anything --

15 A Yeah.

16 Q -- to call in?

17 A It was -- yeah, they were asking that
18 witnesses call if they saw anything.

19 Q Okay. And -- and in doing so, were you
20 able to find a phone number and call in to offer
21 whatever information you observed surrounding this
22 incident?

23 A Yeah.

24 Q And -- and you -- and -- and you did that?

25 A Yeah.

Examination of Esther Verbruggen

1 Q Approximately how close in time do you
2 recall from when you saw the news alert to when you
3 called in?

4 A Just a few days.

5 Q Okay. And in your own words then, if you
6 can do your best to turn back to that incident --

7 A Mm-hmm.

8 Q -- why -- why did you feel you were a
9 witness? What did you observe that day and why did
10 you call in?

11 A Yeah. You want me to just tell the whole
12 story or --

13 Q Yeah, absolutely. So where -- where were
14 you?

15 A So I was walking to the library. I decided
16 to cut through that parking lot. There was, like, an
17 abandoned store there. And I --

18 Q I have a map up here for you. It's --

19 A Oh, good.

20 Q It's -- this is a Pig 'N Pancake, KFC.

21 A Yeah. So I was -- can I go up there and --

22 Q Absolutely.

23 A -- point to where I was? And so I was
24 coming -- where's the store? (Indiscernible) --

25 Q I believe the old store, if I'm not

Examination of Esther Verbruggen

1 mistaken -- let me go back here.

2 A 'Cause I know it's by 120 -- 122nd.

3 Q That's 122nd right there.

4 A Mm-hmm. And then --

5 Q This is Glisan.

6 A -- and then there's -- okay. So I would've
7 been (indiscernible) 'cause I live where that
8 (indiscernible), so I was coming along here.

9 Q Okay.

10 A I think somewhere along here, there were
11 cars kind of blocking the sidewalk. So I decided to
12 cut through.

13 Q Mm-hmm.

14 A And then I think the abandoned store is
15 somewhere in this area.

16 Q Okay.

17 A And as I was cutting through, I saw a guy
18 and then -- by a car kind of messing with one of the
19 windows, so that was in this area.

20 Q (Indiscernible).

21 A And then as I was walking by, I saw the
22 security guard come out, so we kind of crossed paths.
23 And then I kept walk -- I started walking going this
24 way. So I saw the back of the guy and he threatened
25 the security officer for a while, but --

Examination of Esther Verbruggen

1 Q So I'll slow that down a little bit. So
2 you -- so to recap, if I understood correctly, you
3 saw --

4 A Mm-hmm.

5 Q -- before the -- before seeing the security
6 guard, some individual interacting with a vehicle?

7 A Yes.

8 Q And did you say you were doing anything
9 when you saw that?

10 A No. He looked kind -- I thought he was
11 homeless. He looked kind of crazy and unstable, so I
12 didn't really want to talk to him or say anything
13 'cause he seems like the kind of person who would
14 start yelling at you if you did.

15 Q Okay. And how much time -- and -- and if
16 you can't recall exactly how much time, how much time
17 transpired between when you saw that and when you saw
18 the security guard come out?

19 A Just a few seconds.

20 Q Okay.

21 A He was already kind of on his way out when
22 I was walking by.

23 Q And if I heard you correctly, you saw the
24 back of the individual, but the front of the security
25 guard when they interacted?

Examination of Esther Verbruggen

1 A Yeah, when I -- yeah. When they were
2 interacting 'cause I was walking this way and the guy
3 was facing towards the security officer. He -- so
4 the security officer was around here and then the man
5 was around here, so the man was facing the security
6 officer. So I saw the back 'cause I was over here
7 looking that way.

8 Q Okay. So you've already passed him and --

9 A Right.

10 Q -- you're looking backwards and you see the
11 back of the individual --

12 A Yes.

13 Q -- and the front of the security guard?

14 A Yes.

15 Q Okay. Go ahead and have a seat. And so
16 what -- when you saw that interaction between the
17 two, what -- what next did you observe?

18 A The guy was yelling at the security officer
19 and I can't remember exactly what he was saying. I
20 think he dropped the F bomb a few times.

21 At one point, the -- the man, like, stepped
22 forward towards the security officer and the security
23 officer kind of backed up a little bit, so he was
24 simply trying to keep his space.

25 And it looked like the security officer had

Examination of Esther Verbruggen

1 had his hands out, like, trying to calm the guy down.
2 And then the man was kind of backing away towards my
3 direction and I didn't really want to be around him,
4 so I just kept walking.

5 Q And where did you walk to?

6 A The library.

7 Q Okay. So you -- and did you maintain the
8 same pace or did you increase your pace as you walked
9 away?

10 A I think I walked a little faster. I really
11 didn't want to be -- I didn't want to be around
12 the guy.

13 Q Okay.

14 A And -- and then I heard sirens a few
15 minutes later.

16 Q Okay. And when you -- and did you actually
17 walk southbound on 122nd or did you head --

18 A In that general direction. I was
19 walking -- I was walking this way 'cause that's where
20 Multnomah County Library is.

21 Q Okay. And did you see -- when you heard
22 the sirens, did you see any interactions -- any
23 further interactions between the security guard and
24 the individual?

25 A No. 'Cause I -- by that time, it was out

Examination of Esther Verbruggen

1 of sight 'cause I couldn't see that way anymore
2 'cause I passed the building.

3 Q Okay. And when you heard the sirens, did
4 you see any of the interactions between law
5 enforcement and the individual?

6 A No, I saw none of that. I kind of wondered
7 if they were going towards that guy 'cause he had
8 seemed pretty crazy, but I didn't know for sure until
9 later.

10 Q Okay. And -- and at any point in the
11 interaction that you saw between the security guard
12 and this individual, did you see any weapons?

13 A His back was turned to me, so I didn't
14 really see what was in his hands.

15 Q Okay. And at any point when you made --
16 made it to the library or on your way to the library,
17 did you ever hear any gunshots or anything else
18 involving this interaction?

19 A No, I didn't hear anything.

20 Q Okay.

21 A Just sirens, so --

22 MR. HANNON: Okay. Appreciate it. Thank
23 you.

24 BY MR. OVERSTREET:

25 Q Yeah, for the record, Shawn Overstreet.

Examination of Esther Verbruggen

1 When you said he was at the window, could
2 you tell what he was doing to the car?

3 A You know, I really only looked at him for a
4 second 'cause he did seem kind of crazy and homeless,
5 so I didn't really want to look at him. But it
6 looked like he was maybe trying to get in.

7 Q Was this the passenger's side or the -- or
8 the driver's side?

9 A Okay. I think it was -- I think it was
10 the driver's side 'cause I think the car was facing
11 out and he was the window further away from me. I
12 could be wrong.

13 Q And you couldn't see if there was anything
14 in his hands?

15 A I -- I didn't get a good look. I feel like
16 there might have been just 'cause he was trying to
17 get into the car somehow, but I didn't really -- if
18 there -- if I saw something, it didn't register. I
19 don't really know, so --

20 BY MR. HANNON:

21 Q Did you -- based on the behavior with him
22 and the Jeep, did you suspect at all that it was his
23 Jeep that he -- or car -- excuse me. I should say
24 car -- that he was -- was it his car, in your
25 opinion, that he was interacting with?

Examination of Esther Verbruggen

1 A I didn't think it was his car 'cause, like
2 I said, I kind of thought he was homeless, so I
3 thought it was odd he was by the car at all.

4 MR. HANNON: Okay. Do the grand jurors
5 have any other follow-up questions?

6 May this witness be excused?

7 A GRAND JUROR: Yeah.

8 A GRAND JUROR: Yes.

9 MR. OVERSTREET: Great. Thank you.

10 MULTIPLE GRAND JURORS: Thank you.

11 THE WITNESS: Thank you.

12 A GRAND JUROR: Thanks for coming.

13 THE WITNESS: (Indiscernible).

14 (Indiscernible) outside?

15 MR. HANNON: Absolutely. And, in fact, if
16 they have any questions, you can have them give me
17 a call.

18 THE WITNESS: All right. Thank you.

19 MR. OVERSTREET: And if you stand right
20 there and raise your right hand, we'll have you --
21 we'll swear you in.

22 **WILLIAM ROSENBAUM**

23 Was thereupon called as a witness; and, having been
24 first duly sworn, was examined and testified as follows:

25 **EXAMINATION**

Examination of William Rosenbaum

1 BY MR. HANNON:

2 Q And I -- my understanding is you might be a
3 little under the weather today; is that right?

4 A Yes, sir.

5 Q Okay.

6 A I apologize for being a little bit late. I
7 did not mean for this to happen.

8 Q No, that -- no apologies necessary. I
9 appreciate you being here, but -- but I would ask --
10 we're audibly recording this, so if you could do your
11 best to speak up --

12 A Yes, sir.

13 Q -- but understanding you're under -- under
14 the weather.

15 A Yes, sir.

16 Q So, first, can we start by -- could you
17 state and spell your name for the record?

18 A Will Rosenbaum.

19 Q And how do you spell your last name?

20 A R-o-s-e-n-b-a-u-m.

21 Q And it's Will?

22 A Yes, sir, Will or William.

23 Q Will or William. Thank you.

24 And, Mr. Rosenbaum, how are you employed?

25 A I was. I worked for Black Wolf Protection

Examination of William Rosenbaum

1 along with Executive Security.

2 Q You're with --

3 A I was -- I was with -- I work Executive
4 Security. I was the -- I work for Executive right
5 now at this moment.

6 Q Okay. And -- and so if I heard you
7 correctly -- 'cause you're speaking a little fast.
8 I'm going to slow you down.

9 A I'm sorry.

10 Q That's okay. You work for Executive
11 Security?

12 A Yes, sir, at this moment. I was working
13 for Black Wolf when -- when this -- when this
14 incident happened.

15 Q Okay. And -- and is that Blackwood
16 Security?

17 A Black Wolf.

18 Q Back -- Black Wolf.

19 A Yes, sir.

20 Q Got it. And how long had you been working
21 in Black Wolf Security?

22 A I was working for, like, roughly about
23 six months or so.

24 Q And how long have you worked in security?

25 A I've been doing this roughly around 14 to

Examination of William Rosenbaum

1 16 years.

2 Q Okay. And when you worked for Black Wolf
3 Security at the time of this incident, is there one
4 location you were stationed to or did you have to go
5 to different locations?

6 A I was mainly at Sally's Beauty on 122nd
7 and Glisan.

8 Q Okay.

9 A And then when my contract ended
10 (indiscernible), I lost a lot of hours. That's the
11 only reason why I left 'cause I needed money for my
12 family.

13 Q Got it. So there -- there was a contract
14 with Wolf -- Black Wolf Security. There was an
15 assignment and so they tasked you with that
16 assignment and -- and that contract?

17 A Yes, sir.

18 Q And it was Sally's Beauty Salon. Was it
19 the Sally's Beauty Salon located at Northeast 122nd
20 near Glisan and Burnside?

21 A I affirm.

22 Q Okay. And you said, "affirm." That's a
23 yes?

24 A Yes, sir.

25 Q Okay. Turning your attention to that day,

Examination of William Rosenbaum

1 did you have an occasion to request that the police
2 be called and did you, yourself, call the police?

3 A Yes, sir. I was actually on -- on the
4 phone with them the whole time.

5 Q Okay. In your own words, what was going on
6 that day that caused or prompted you to call
7 the police?

8 A When we were at -- from start to finish, I
9 was inside of Sally's Beauty. And I saw an
10 individual who I'd see every day walking -- walking
11 by, always walking, talking to himself, things
12 like that.

13 So I know that (indiscernible) with him.
14 And then I was about to go take my break. And so I
15 kind of went outside (indiscernible) kind of see what
16 he's going to do, what he's doing. I said, "Hey.
17 Hey, sir, how you doing?"

18 Q Mm-hmm.

19 A And then the individual flipped out on me.

20 Q Okay. I'm going to stop you there and slow
21 you down a little bit.

22 A Sorry.

23 Q So the -- if I understood you correctly,
24 you're at Sally's Beauty Salon. You're inside?

25 A Yes, sir.

Examination of William Rosenbaum

1 Q And when you're inside, you see an
2 individual who you've seen before in this
3 neighborhood?

4 A Correct.

5 Q And because you've seen him before in this
6 neighborhood, based on behavior you've seen, when he
7 approached a vehicle in the parking lot, you did not
8 believe it was his vehicle that he was approaching?

9 A Correct.

10 Q And did you see him interact with that
11 vehicle in any way?

12 A Yes, sir. I saw him on the side of the
13 Jeep. I thought it was red at the time, but it ended
14 up being a black Jeep.

15 Q Mm-hmm.

16 A And he was looking inside to get stuff out.

17 Q Okay.

18 A And so I just wanted to stop it. I just --

19 Q And -- and so based on your observations,
20 that -- is that when you went outside to contact him?

21 A Yes, sir.

22 Q And --

23 A And then I --

24 Q -- describe your contact with him.

25 A I (indiscernible) just by nature. So I

Examination of William Rosenbaum

1 went up there. I just asked him, I was like, "Hey,
2 sir, how's it going?"

3 Q Mm-hmm.

4 A And that's when he flipped out and --

5 Q How did he flip out? What did -- what did
6 he do?

7 A He just started screaming and yelling, "I'm
8 a federal agent. I'm a federal agent, federal
9 officer," type deal.

10 Q And from your training and experience as a
11 security guard, did that seem reasonable or credible
12 to you that he was a federal agent?

13 A No, I could tell he wasn't.

14 Q Okay.

15 A I didn't know who exactly he was. I didn't
16 know his name, but I would see him daily.

17 Q Mm-hmm. So when he started yelling at you
18 that and saying that, what did you do?

19 A I was like, "Okay." Like, I want to know
20 what you're doing inside of this vehicle. I know it
21 doesn't belong to you," type deal.

22 Q And so what happened next?

23 A And -- and -- and I was going to walk away.

24 Q Mm-hmm.

25 A I just (indiscernible) vehicle, let him

Examination of William Rosenbaum

1 know someone was watching him. And I (indiscernible)
2 kind of yelling. And then he kept on yelling,
3 yelling, yelling.

4 Q And do you remember what, if anything, he
5 was yelling at that point?

6 A Yeah. "I'm -- I'm a federal agent
7 officer."

8 I walked up to him, "Okay. Cool. If you
9 are, do you mind getting credentials type of deal,
10 prove it that you are and I'll leave you alone."

11 Q Mm-hmm.

12 A And then he goes, "No. You can't touch me,
13 Mr. Rosenbaum," 'cause it's my -- my vest had my last
14 on it.

15 Q Got it.

16 A "And you're just security. I can get you
17 -- I can call my boys. I can get you arrested. I
18 can get you into trouble, like, (indiscernible) or
19 whatever. I'll just stay out of the vehicle." And
20 then I just continued walking back.

21 He's yelling some more, kind of got my
22 attention, so I walk -- kind of nonchalantly walk
23 back to him, not -- not threatening or anything like
24 that. And then I noticed in his right pocket, he did
25 have a knife sitting right there.

Examination of William Rosenbaum

1 Q Mm-hmm.

2 A It was about maybe four inches long --

3 Q Okay.

4 A -- possibly. And I noticed it wasn't there
5 anymore, so I didn't know where the knife was at at
6 that point or kind of --

7 Q So let's take a step -- step back for a
8 second. When was the first time you noticed there
9 was a knife in his pocket that you later saw was no
10 longer there? When did you first see this knife?

11 A When -- after I approached him -- actually,
12 when he turned around, I looked at him head to toe
13 and I see this kind of black object, what appeared to
14 be, like, a blade or knife.

15 Q So the black object, was it -- was it
16 fastened to his pocket?

17 A Can I stand up real quick --

18 Q Yeah.

19 A -- (indiscernible)? Okay. So, usually, a
20 pocketknife is usually inside.

21 Q Mm-hmm.

22 A He just had it like this showing.

23 Q Okay. So it was attached to his pocket,
24 but on the outside?

25 A Correct.

Examination of William Rosenbaum

1 Q Okay. And -- and so you noticed that when
2 you first contacted him, but he didn't pull it out or
3 use it at that point?

4 A No, sir. But I stayed a safe distance away
5 'cause I know all I had on me was just my ASP baton,
6 just, you know, for show type -- you know, type deal.
7 And then --

8 Q And -- and that was an ASP baton. Is that
9 one of the ones that kind of collapses and closes?

10 A Yes, sir.

11 Q Okay.

12 A The only reason I (indiscernible) in that
13 neighborhood type deal (indiscernible) they want us
14 to be unarmed there.

15 Q Mm-hmm.

16 A Which is -- which is okay.

17 Q So -- so when you noticed -- after your
18 interaction with him and after trying to get him --
19 or getting him away from the Jeep, you see his pocket
20 and you notice the knife is gone.

21 A Yes, sir.

22 Q And, at any point, did you see where the
23 knife went?

24 A No, sir, not at the time.

25 Q Okay.

Examination of William Rosenbaum

1 A And then a little further on, I was kind of
2 talking to him. And then, all of a sudden, I saw a
3 knife in his hand, blade out.

4 Q Mm-hmm.

5 A That's why I got -- that's why I pulled out
6 and that's why I called (indiscernible).

7 Q Pulled what out?

8 A That's when I pulled my baton out just --
9 you know, just like, "Hey, just get back," whatever.

10 Q So you see his knife come out and he's
11 holding it, so you, in return, pull your ASP baton.
12 And did you uncollapse it? Meaning, did -- did you
13 extend it?

14 A I showed it. Just a show of force. I was
15 not going to use it on him --

16 Q Mm-hmm.

17 A -- type deal 'cause I (indiscernible) smart
18 and called PD finally --

19 Q So --

20 A -- on the phone.

21 Q So as you get your baton out, is -- is it
22 at that point you also pull out your phone and start
23 calling the police?

24 A Yes, sir.

25 Q Okay.

Examination of William Rosenbaum

1 A I told him, "Please get back," and I was
2 trying to step back away from him. That's when he
3 started kind of walking towards me a little bit
4 (indiscernible). I told the 9-1-1 operator, "The
5 guy's walking towards me and I do see a knife in
6 his hand."

7 Q Okay. And then what happened next? After
8 you started calling the police and you had the baton
9 in your hands, he has the knife in his hand
10 approaching you, what do -- what do you do?

11 A I was just yelling commands, "Get back,"
12 and, "Please get back, get back, get back, get back."

13 Q And --

14 A (Indiscernible) I didn't want anybody else,
15 so I started make -- make a way towards --

16 Q And when you're -- and you're making
17 away --

18 A I'm sorry, what?

19 Q -- is this all occurring in the parking lot
20 or where is this occurring?

21 A All in that parking lot.

22 Q Okay.

23 A There was -- there was -- the Jeep was
24 closer to the -- which one is --

25 Q This is the street. This is the building.

Examination of William Rosenbaum

1 A Correct. And farther up -- well, between
2 those two buildings -- I think that's KFC and that's
3 the -- yeah. The building right there, that's where
4 we first interacted at.

5 Q Up here?

6 A And then we -- yes, sir. Then we slowly
7 started going by -- going towards the old Safeway.

8 Q Okay. Is that over here?

9 A Is that where it's at? Okay. I could tell
10 on the map.

11 Q Okay. So you're moving in a direction
12 away from --

13 A Yes.

14 Q -- this spot?

15 A Yes, sir. And all at once, the guy just --
16 he (indiscernible) keep an eye on the individual.

17 Q Okay. And does he change his behavior or
18 is he still --

19 A He's --

20 Q -- facing you?

21 A He's still facing me. And he's still,
22 like, I'm -- I'm backing up a little bit, like,
23 "Please get back," you know, type deal. And then he
24 finally started going back a little bit. And I was
25 like, okay. Well, he was actually -- started --

Examination of William Rosenbaum

1 started to move off.

2 Q Mm-hmm.

3 A And -- and I was still -- continued
4 watching him, letting them know his every move.
5 (Indiscernible) what -- what the operator told me
6 to do.

7 Q Okay. So -- and -- and does he move --
8 where does he move, towards the buildings or towards
9 the street?

10 A Towards the street.

11 Q And so would that be 122nd --

12 A I --

13 Q -- if this is Sally's Beauty Salon?

14 A Yes, sir.

15 Q Okay. So he moves towards 122nd.

16 A Slowly.

17 Q Slowly.

18 A Yes, sir. And then he came back. Yeah.
19 He's like, "I'm a federal agent, federal agent,
20 federal agent," again.

21 Q And at that -- let me slow you down real
22 quick. At -- at any point, did you see him put the
23 knife away or put the knife back?

24 A He still had it.

25 Q Okay.

Examination of William Rosenbaum

1 A And I let them know, like, "I still believe
2 he still has a knife (indiscernible) and he's
3 claiming he's a federal agent."

4 Q Okay. And then what happened?

5 A Then we kept on. I kept on continuing and
6 going towards -- trying to go towards Sally's and
7 make sure -- still watching my surroundings making
8 sure no innocent bystanders --

9 Q Mm-hmm.

10 A -- would get involved. And then every time
11 he makes a couple steps toward -- towards me, I would
12 take a couple steps back --

13 Q Mm-hmm.

14 A -- and just yell, "Just get back" --

15 Q Mm-hmm.

16 A -- type deal. And then we got closer to
17 Safeway. That's when he changed a little bit. I
18 didn't see the knife anymore. So I started putting
19 my baton -- putting my baton back up in my vest.

20 Q Mm-hmm.

21 A And then, now, I said, "He's going towards
22 Safeway. I think he was going to leave."

23 Q So I'm going to stop if I understood
24 correctly. So he -- he started changing a little bit
25 in the sense that you saw the knife was no longer in

Examination of William Rosenbaum

1 his hand?

2 A Correct, yeah.

3 Q And because his knife was no longer in his
4 hand, you recollapsed the baton and put it back in
5 your waist?

6 A Yes, sir. Yes.

7 Q Okay. And are you reporting that to the
8 police as it's happening as well?

9 A Every time he pulled it and every time I
10 put it back up --

11 Q Okay.

12 A -- I let them -- I let them know what's
13 going on.

14 Q So as you are marching or walking towards
15 this direction, what happens next?

16 A Basically, I tell them exactly where he
17 went --

18 Q Mm-hmm.

19 A -- type deal, like, I'm okay. So I'm
20 trying to get on -- I think it was, like, 25, maybe
21 30, 40, 50 feet, maybe yards away from him, trying
22 to, you know, keep a safe, clear distance. And he
23 went the right side of Safeway and then I guess he
24 saw I was still following him on the phone.

25 Q Mm-hmm.

Examination of William Rosenbaum

1 A He yelled at me some more. I can't
2 remember what he -- exactly what words were said.
3 And then I saw his knife back out again. And I
4 believe there was, like, a -- an Asian male was
5 walking by.

6 Q Well, let me -- let me interrupt. So when
7 the -- you saw the knife come back out again, did you
8 pull your ASP baton out again?

9 A I was still at the same distance, but I
10 just -- if he came back and charged towards my area,
11 I -- I did.

12 Q Okay.

13 A And then I guess -- and then he's, like,
14 basically (indiscernible) pull it on somebody. It's
15 like -- like, oh, my God. He pulled a knife on this
16 individual just --

17 Q And --

18 A -- walking by -- by the bus stop area.

19 Q And that's the -- this Asian individual
20 you're describing?

21 A Yes, sir.

22 Q Okay.

23 A And as he continued walking, nothing was --
24 so, like, the guy somehow kept on continued
25 walking --

Examination of William Rosenbaum

1 Q Mm-hmm.

2 A -- type deal. I think -- I believe I
3 yelled out, "Please put the knife down," type deal.

4 Q Mm-hmm.

5 A And then when --

6 Q You yelled, "Please," or, "Police"?

7 A No, no. No, I said -- I'm sorry.

8 Q That's okay. I just want to make sure I --

9 A I should've had my report in front of me.
10 I -- I said, "Put the knife down" --

11 Q Okay.

12 A -- "(indiscernible)."

13 Q But -- but you said, "Please." Do -- were
14 you saying, "Please," or, "Police"?

15 A I -- I didn't mean to say that. I
16 apologize for that word -- wording. I said -- I was
17 just like, "Put the knife down." I demand, "Put the
18 knife down."

19 Q Okay.

20 A And I was trying to keep everybody away.
21 Like, I -- please -- I was, like, to everybody else,
22 "Please do not" -- like, "Please" --

23 Q "Please." Got it. Okay.

24 A -- "do not go around this -- around this
25 area. Go around." I didn't want anybody else

Examination of William Rosenbaum

1 getting hurt or --

2 Q Okay. And so -- and as you're doing that
3 and watching him, what is he doing? Is he still
4 walking?

5 A Yes, sir. And then he -- then he came back
6 and he charges some individual. It looked like he
7 was holding -- or, like, some guy was holding him and
8 hugging him.

9 Q Mm-hmm.

10 A And then the knife was put back up.

11 Q Like, so --

12 A That's --

13 Q -- you could see it back in his pocket?

14 A Yes, sir.

15 Q Okay.

16 A And then I see, like, a -- a green-handled
17 object come out. And as I'm -- dispatcher's like,
18 hey, something's pulled out, a green-handled item.
19 (Indiscernible) I don't know what it is. I thought
20 it was just a big old pipe or a stick, whatever type
21 of deal, so I'm backing up even more.

22 Q Mm-hmm.

23 A I made sure for the safety of everybody
24 else, wanted to continue to -- letting 9-1-1
25 dispatcher know everything was -- exactly what's

Examination of William Rosenbaum

1 going, word for word.

2 Q Mm-hmm.

3 A And then I -- I called it an axe. I didn't
4 know; but it was, actually, a small little hatchet.

5 Q Mm-hmm.

6 A And he came towards me, like, swinging it
7 and then he was, like, hitting the sides of the --

8 Q How close did he get to you when you said
9 he came close to you -- or came towards you?

10 A He came, like, maybe 25 feet or so.

11 Q Okay.

12 A And I -- I have my ASP back out.

13 "Please get back -- get back." (Indiscernible),
14 after that, I was shaking. I go, "Please, please
15 step back."

16 Q Mm-hmm.

17 A The guy's coming towards me and it looked
18 like -- appeared to be an axe.

19 Q Mm-hmm.

20 A And he kept on hitting, like, the -- where
21 the carts -- where the shopping carts go in there.
22 He was hitting -- he was hitting that.

23 Q Mm-hmm.

24 A I guess, intimidation, where the bike rack
25 was at.

Examination of William Rosenbaum

1 Q Mm-hmm.

2 A And then I looked back. I saw one of
3 the -- the police officers were on sight, okay, they
4 were on sight type deal. Like, the police, they were
5 following (indiscernible).

6 Q Okay. And -- and did you get out of the
7 way for the officers or did you continue to follow?

8 A I was getting -- as -- actually, I guess,
9 that -- that I saw the officer, he started going
10 around that way a little towards the building. Then
11 I hear, like, the -- the officer, "Hey, come here,
12 come here, over here now."

13 Q To you or to him?

14 A To me.

15 Q Okay.

16 A So I ran towards him.

17 Q And what -- and what'd you do next?

18 A And I filled him in exactly what happened.

19 Q Mm-hmm.

20 A And where exactly at the moment what he had
21 in his hand.

22 Q Okay. And then what happened? Did --

23 A Basically they told me --

24 Q -- did you ever see the other individual
25 again, the male with the knife and hatchet?

Examination of William Rosenbaum

1 A No, sir.

2 Q Okay.

3 A 'Cause I -- like I said, the officer was
4 kind of (indiscernible) I just let him know, I was
5 like, "Hey, this is where he's doing. This is what
6 he did" type deal, like that, and he said, "Stay over
7 here."

8 Q Okay.

9 A -- until --

10 Q And did you, at that point, disconnect from
11 dispatch and --

12 A Yes, sir.

13 Q -- and --

14 A Like I told the dispatcher, he is -- the
15 officers -- I told him to go towards his direction,
16 so he goes, "Okay."

17 Q Okay. And did you follow -- see the
18 officers head towards his direction?

19 A Yes, sir, eventually.

20 Q Okay. And what did you -- after all that
21 was done -- obviously, at some point later, you
22 interviewed with officers. But did you go back to
23 Sally's or -- or your job or where'd you go after all
24 that finished?

25 A I went back to Sally's for a second and

Examination of William Rosenbaum

1 then I end up getting a -- pick up my pizza order
2 from the (indiscernible), bought a Little Caesar's
3 and then went back there and just ate a little bit to
4 calm down and tried -- tried to type out my report.

5 Q Okay. Anything else about that day and
6 what you observed that I -- that I've not asked you
7 or that you recall about this individual or that
8 incident?

9 A Not off the top of my head. Hopefully, I
10 said it word for word. I'm just trying to remember
11 everything.

12 MR. HANNON: Sure.

13 BY MR. OVERSTREET:

14 Q Do you specifically remember any threats
15 that he made towards you while holding the knife?

16 A Basically, (indiscernible) he kept on
17 saying, "Federal -- federal -- federal officer."
18 When -- well, now, he's pointing at me, I just felt
19 like I was threatened right there already type deal.

20 You know, I was decently protected, but not
21 enough to actually know what he's capable of doing.
22 That's why I was trying to get -- trying to stay back
23 as much as I can.

24 Q And while displaying the knife, he was
25 walking towards you?

Examination of William Rosenbaum

1 A Yes, sir, a little bit. In that space,
2 I -- by the time he made a couple steps forward
3 towards me, I'd take a couple steps backwards type
4 deal, so if he charged me I'd run or kind of take off
5 backwards.

6 I didn't want to hurt the guy at all. I
7 merely was (indiscernible) type deal. I was trying
8 to -- like, okay. I didn't want -- I did not want
9 him to get hurt at all. I just wanted him just to
10 get off the property type deal and I just didn't know
11 what was going to happen.

12 Q And when you were giving him commands to
13 back off, things like that, was he responding to
14 those? Was he complying with your commands?

15 A No, sir.

16 BY MR. HANNON:

17 Q That was a no?

18 A No, sir.

19 MR. HANNON: Okay.

20 Yes?

21 A GRAND JUROR: When he had the knife out,
22 did you notice if there was anything attached to the
23 knife or was it just a knife?

24 THE WITNESS: Just -- just the knife in
25 his hand.

Examination of William Rosenbaum

1 A GRAND JUROR: Folding knife.

2 MR. HANNON: Anybody else?

3 A GRAND JUROR: You did say that you
4 noticed him multiple times in the area. Have you
5 ever had any contact with him previously for any
6 other incidents?

7 THE WITNESS: No, ma'am. Every time
8 he's -- he's (indiscernible) walks off the elevator,
9 he'll yell or something like that. I was like, what
10 the heck type deal or just -- but he'll usually leave
11 us alone. It was, like, the first time I ever seen
12 him look into a car, you know, taking -- here, take
13 a -- a box or two out. And it looked like he had a
14 gas can in his hand.

15 By the time we tried to put everything up,
16 we couldn't find anything. So I was at a pretty good
17 distance away while I was watching him.

18 MR. HANNON: Anybody else? May this
19 witness be excused?

20 A GRAND JUROR: Yes.

21 A GRAND JUROR: Mm-hmm.

22 MR. HANNON: Okay. Let's try to get one
23 more witness and then we'll go ahead and take our
24 lunch break.

25 A GRAND JUROR: Thank you.

Examination of William Rosenbaum

1 A GRAND JUROR: Hope you feel better.

2 MR. OVERSTREET: Mr. Miller.

3 MR. HANNON: Just stand right there, raise
4 your right hand. They'll swear you in.

5 **RICHARD MILLER**

6 Was thereupon called as a witness; and, having been
7 first duly sworn, was examined and testified as follows:

8 MR. HANNON: Okay. Go ahead and have a
9 seat.

10 **EXAMINATION**

11 BY MR. HANNON:

12 Q And can you tell us -- first, state and
13 spell your name for the record.

14 A I'm Richard Miller, R-i-c-h-a-r-d,
15 M-i-l-l-e-r.

16 Q And thank you, Mr. Miller. And can you
17 just explain the background of how you became
18 involved in this case and why you're here today?
19 What -- how did you become connected to it?

20 A Sure. My wife works at the Central City
21 Concern building right there on -- on 122nd and
22 Burnside. And she's new there and wanted me to come
23 visit at the -- the building and see what it's like.
24 So I was coming from Halsey down 122nd, so going
25 south on 122nd.

Examination of William Rosenbaum

1 And when I got down to that area, I
2 realized there was no parking. So I turned right on
3 Burnside, turned right again on -- I think it's
4 120th. And there was no parking back there either.
5 It was just full or something. It's almost like an
6 alleyway back there.

7 And came out on Davis and turned right
8 again and -- back to 122nd. And I pulled up to look
9 to see if there is parking and there wasn't anything
10 there. And I looked left and realized there's a guy
11 standing right there. And he starts knocking on my
12 window.

13 And he had a -- he had a -- it was like
14 his wallet was flipped backwards open and he's
15 showing me his -- like an ID. And he's pounding on
16 my window with his ID and -- and I couldn't
17 understand what he was saying. It was -- it just
18 sounded like gibberish to me.

19 And -- and so I'm trying to focus on his --
20 on his ID and see if I can get a name or what's he
21 talking about. I don't know what's going on. And --
22 but it was moving so fast, I could never make out
23 anything that -- what he was showing me.

24 Then he turned behind him and started
25 yelling and there -- and he's yelling at some

Examination of William Rosenbaum

1 officers behind him. And I realized I had just
2 pulled into the middle of a situation. When he had
3 turned to yell at the officers, I realized, in his
4 right hand, he had a hatchet.

5 So, you know, that's when I'm -- I'm like,
6 okay. I'm in a situation. My sunroof was open at
7 the time, so first thing I did is hit the button to
8 shut the sunroof and then I slowly backed up and got
9 myself out of the scenario. And they proceeded to
10 kind of -- he -- he walked by and then they -- they
11 were slowly following him.

12 Q And -- and could you make out whether or
13 not -- what, if anything, he was yelling at the
14 officers or what the officers were saying to him?

15 A No. When they walked by, it was -- it was
16 really awkwardly -- it was peaceful, actually, I
17 mean, as far as -- he was yelling and waving his
18 hatchet, but they weren't -- they weren't saying
19 anything to him. I think they were just -- I -- my
20 observation was that they were just kind of keeping
21 his pace --

22 Q Mm-hmm.

23 A -- and seeing where it would go. As I sat
24 there, I -- you know, I'm looking down the block and
25 I see there's people there. And I wonder if they

Examination of William Rosenbaum

1 realize there's a guy with a hatchet coming this --
2 their way.

3 I ended up pulling right onto 122nd and get
4 a little bit further down. And that -- at that time,
5 an SUV police car came and -- and stopped traffic.

6 Q I'm going to stop you real quick if I may
7 and interrupt you.

8 A Sure.

9 Q Going back to the point where he knocked on
10 your window and you closed your sunroof, why did you
11 do that? What -- what were you concerned about?

12 A I thought he's going to -- he could jump in
13 my -- in my car or something --

14 Q Mm-hmm.

15 A -- you know. You know, I was just grateful
16 he didn't, you know, hit my car with the hatchet or
17 anything like that, so -- and --

18 Q And how concerned were you when you saw to
19 the right who he was approaching at when you saw -- I
20 mean, were there people out and about?

21 A Yeah, there were people out and about.
22 And, like, I could see down to the Blackburn office
23 building where my wife works, so I -- I called her
24 and I said, "Hey, there's a situation. I don't know
25 if you guys do lockdown drills or anything like that,

Examination of William Rosenbaum

1 but you probably don't want this guy just opening up
2 the doors and coming in."

3 And so she's talking to her supervisors and
4 stuff like that to see what they do and, you know,
5 I -- I think my level of concern was -- you know, I
6 was -- I was glad at least the officers were already
7 there. They didn't --

8 Q Mm-hmm.

9 A -- need to be called or something.

10 Q Mm-hmm.

11 A But, you know, they obviously had it in
12 hand.

13 Q So -- and I interrupted you. You're
14 driving southbound on 122nd and a -- and a Portland
15 Police SUV kind of blocks travel at that point.

16 A Yeah.

17 Q What -- what do you do?

18 A Just kind of wait. And at that point, I
19 could tell that they were starting to cross Burnside.
20 There was people getting out -- out of their cars
21 and -- and watching and trying to see what's going on
22 and stuff like that. And the -- the -- there was
23 people talking about it, starting to gather.

24 There was a -- a pot shop right there, so
25 they were -- they were out there talking and watching

Examination of William Rosenbaum

1 from there and stuff. But once I couldn't see what
2 was happening anymore, my main concern was to get out
3 of the traffic and --

4 Q Mm-hmm.

5 A -- and get out of there. So I made my way
6 over to the -- the turning lane and ended up turning
7 left on Burnside when the light opened up. The rest,
8 I heard on the radio, on the news.

9 Q Were -- at any point, did you hear any sort
10 of gunfire or any sort of other sounds similar to
11 that?

12 A I -- I -- I didn't.

13 Q Okay.

14 A I didn't hear anything like that. After
15 that, I -- it would -- I would only be speculating.

16 Q And you mentioned that you later heard on
17 the radio and saw it on the news. So how was it that
18 you came involved and you're here testifying today?
19 Was -- was -- was there any prompts or news coverage
20 that prompted --

21 A I --

22 Q -- you to call in?

23 A Well, kind of. I -- you know, you go home
24 and you tell your family, "This is what happened to
25 me today." And my mom lives with us. Okay. I'll

Examination of William Rosenbaum

1 try and keep a long story short. She went to get her
2 haircut the next day; and, apparently, she told the
3 beautician what had happened.

4 And later on that day, the woman that cut
5 her hair sent a -- a link to a press release, I
6 guess, and said, "I think they're looking for your
7 son," 'cause down below in one of the paragraphs, it
8 said, "We're looking for a -- a driver of a black SUV
9 that was at the corner of Davis and (indiscernible)."
10 So I called the officers that were in that report
11 (indiscernible).

12 MR. HANNON: Okay.

13 BY MR. OVERSTREET:

14 Q So, for the record, Shawn Overstreet.

15 It appears that we had some video of your
16 vehicle pulling out and there's some audio. And it
17 sounds like some sort of banging on the car. Do
18 you -- do you have any independent recollection while
19 in your car of this individual hitting your vehicle?

20 A Just the window. All I remember is the --
21 you know, it's like -- he was taking his -- it's like
22 his wallet was open like this and there was an ID
23 right there. And then -- so if this is my
24 windshield, (knocking), you know, he's -- he's going
25 back and forth on my windshield with -- with his

Examination of William Rosenbaum

1 wallet.

2 And it -- it was really -- it was either a
3 fat wallet or he had something else in his hand along
4 with his wallet. It was a handful. And since it was
5 moving so fast, I just couldn't get a -- a take on
6 it. But I think it was just my window that -- as far
7 as I know, that's all he hit on the car.

8 Q Okay. You didn't notice any damage on your
9 vehicle after that?

10 A No, I didn't.

11 Q And do you believe he was holding the ID or
12 the wallet in his left hand or --

13 A I do. Yeah, I think so. You know, you
14 start to think back on that stuff and -- and
15 especially since, when he turned to his left, that's
16 when I saw the hatchet in his right hand.

17 And you know how you have a 1,000 thoughts
18 go through your head at the same time? I remember
19 ironically or -- you know, in that moment, I -- my
20 son and I had gone camping just recently prior to
21 this.

22 And the thought that went through my head
23 is I wish our hatchet was as sharp as his was at the
24 moment. So, stupid little thought, but that's --
25 that's what went through my head at the time.

Examination of William Rosenbaum

1 Q And is it your belief that he did not
2 strike your vehicle with the hatchet?

3 A Yeah, I don't think he did. I -- I haven't
4 noticed anything like that other than, you know, just
5 the normal dings from people parking. So --

6 Q Thank you.

7 A Yeah.

8 MR. OVERSTREET: Any other grand
9 juror questions?

10 A GRAND JUROR: So you -- you're the driver
11 of the black SUV?

12 THE WITNESS: Yeah.

13 BY MR. HANNON:

14 Q What kind of car is it?

15 A It's a -- it's actually a midnight blue and
16 it gets mistaken for black. But it's a black 2006
17 XC90 SUV, Volvo.

18 MR. HANNON: Anybody else?

19 A GRAND JUROR: And --

20 MR. HANNON: Yes.

21 A GRAND JUROR: -- were you alone in the
22 car?

23 THE WITNESS: I was.

24 A GRAND JUROR: Okay.

25 MR. HANNON: Anybody?

Examination of William Rosenbaum

1 A GRAND JUROR: So when you turned, you
2 turned right, then you were behind the suspect, the
3 officers and you were driving towards Burnside?

4 THE WITNESS: Yes.

5 A GRAND JUROR: Is that what you were
6 doing? Okay. And, at any time, did you hear any
7 commands or anything --

8 THE WITNESS: I didn't --

9 A GRAND JUROR: -- other --

10 THE WITNESS: -- no. My -- I -- I didn't
11 roll my windows down until later and that's when I
12 could -- when the people were on the curb talking and
13 stuff like that, just wondering what they were
14 saying.

15 But, no. That's all that -- there was
16 no -- I didn't hear any commands or anything like
17 that, so -- I am hard of hearing in my left ear, but
18 I -- it -- it's not that level of what I didn't hear
19 or -- did or didn't hear.

20 A GRAND JUROR: Got you.

21 THE WITNESS: You know -- yeah. The only
22 thing that stuck out to me was the gibberish that he
23 was -- when he was pounding my window. It almost
24 looked like he was just making up words, you know.

25 A GRAND JUROR: Okay.

Examination of William Rosenbaum

1 THE WITNESS: I -- I realized later that --
2 when I had been coming down 122nd from Halsey, I
3 thought about this later, that I had noticed the
4 skirmish right there at 122nd and -- and Glisan at
5 the old Safeway.

6 And so -- and then I -- you know, I put two
7 and two together that that's -- that's what was
8 happening there and that's what I ran into later down
9 there, so --

10 A GRAND JUROR: Okay.

11 THE WITNESS: Yeah.

12 A GRAND JUROR: What did you -- what did
13 you see at the old Safeway that you called a
14 skirmish?

15 THE WITNESS: It -- it was just -- you
16 know, there's obviously -- there was people yelling
17 and things like that happening. And it just looked
18 like the whole -- I don't know.

19 BY MR. HANNON:

20 Q And by "people," do you mean the individual
21 you saw knocking on your car and officers or not
22 officers and the person you (indiscernible)?

23 A It was the individual and -- and other, I
24 would say, homeless people in -- in a tent sitting
25 right there.

Examination of William Rosenbaum

1 Q Hmm.

2 A And then I think -- I don't -- I don't know
3 if I saw officers there or not. It seemed like
4 somebody was approaching him, but I -- I -- you know,
5 and, again, that was, like, a -- a secondary after
6 thought, so I just realized, oh, that's -- that was
7 that, you know.

8 Q Mm-hmm.

9 A And so --

10 MR. HANNON: Anybody else? May this
11 witness be excused?

12 A GRAND JUROR: Yes.

13 MR. HANNON: All right. Thank you.

14 Thank you, sir.

15 THE WITNESS: Yeah.

16 MR. HANNON: We can go off the record.

17 * * *

18 (Noon Recess taken at 1:12 p.m.)

19

20 **AFTERNOON SESSION**

21 (Whereupon, the following proceedings were
22 held before Grand Jury No. 3, 2:25 p.m.):)

23 MR. HANNON: We are back on the record on
24 Grand Jury 3, Case No. 54, ready to resume with
25 testimony. And then we're going to recall Detective

Examination of William Winters

1 Winters. And I'm, for the record, Dave Hannon,
2 H-a-n-n-o-n, ready to proceed.

3 Go ahead and come in. You're still under
4 oath, so go ahead and have a seat.

5 **WILLIAM WINTERS**

6 Was thereupon recalled as a witness; and, having been
7 previously sworn, was examined and testified as follows:

8 **EXAMINATION**

9 BY MR. HANNON:

10 Q So we had -- through the testimony, we had
11 some follow-up questions related to this case.
12 First, the -- whether the -- Mr. Martin was
13 left-handed or right-handed. Were you ever -- ever
14 able to determine that?

15 A I was not able to determine that. During
16 the course of my investigation, I attempted to
17 contact the family to ask those kind of questions and
18 I got no response. I wasn't able to connect with
19 them to determine that question.

20 Q Now, subsequent to your attempts, was there
21 attempts made by the District Attorney's Office to
22 establish an avenue by which they could either give a
23 recorded interview with you to give more detail,
24 background and understanding about who Mr. Martin was
25 and as well as in conjunction what was going on with

Examination of William Winters

1 his life in -- in the days, weeks and months leading
2 up to this incident that you were part of that last
3 correspondence?

4 A Yes, I was. They -- even to the next day
5 when we had completed the autopsy at the Oregon State
6 Medical Office, I contacted the -- or the family and
7 made notification about that and tried to just get a
8 brief history from them just about who Lane Martin
9 was. I was not able to get anything from them at
10 that time.

11 I attempted to contact his girlfriend at
12 the same time. Same kind of response, no -- nothing
13 that provided any additional information about who
14 Lane Martin was.

15 At the same time, I did give contact
16 information to the Multnomah County District
17 Attorney's Office. They reached out to them on
18 numerous times -- or a couple times to establish some
19 contact, but was not able to get any kind of
20 interview with anybody from the family or his
21 girlfriend about who Lane Martin was.

22 Q And, in fact, they had a -- a
23 representative for the family who served almost as
24 a -- as a representative to field some questions as
25 to the purpose and nature of the questions you or a

Examination of William Winters

1 grand jury or the DA's Office would have and asked to
2 think about it and come back to either yourself or
3 our office for follow-up interviews or investigation;
4 is that right?

5 A That is correct. And they did not reach
6 back out to us.

7 Q And, in fact, up until as recently as
8 yesterday, was there e-mail correspondence indicating
9 that, in fact, not only was there no followup,
10 they -- they do not intend to give you a recorded
11 interview or offer any testimony at the grand jury?

12 A That is correct.

13 Q Now, however, in that correspondence and --
14 was there mention that they did want it to be known
15 that he was a beloved family member, he did have some
16 connections to Portland State Art program and that
17 there was a lot of community support on his behalf
18 irrespective of the facts or allegations surrounding
19 his actions that day?

20 A That is correct. They -- he was -- yeah,
21 they passed on that information that he was a, you
22 know, big artist, that -- those kind of information.
23 And he was loved by the community at PSU and PCC
24 where he had attended.

25 Q Now, factually, was there some aspects

Examination of William Winters

1 that -- information that they had that would've been
2 helpful for you, such as if he's left-handed or
3 right-handed that would've, you know, added some
4 further clarity in your investigation?

5 A Yes. That would've most definitely given
6 me direction of where positioning of either any items
7 of evidence that were located on him by watching
8 video surveillance just demonstrating which hand
9 he uses.

10 Q Now, one of the other questions after your
11 testimony that people had was -- or we had was that
12 the knife in question in this case was attached to
13 some keys.

14 Was there any residence or dwelling that
15 you might have been able to connect those keys to in
16 relation to Mr. Martin to see, in fact -- find some
17 sort of circumstantial evidence that showed ownership
18 of those keys or the knife in Mr. Martin's
19 possession?

20 A Yes. We were able to determine that
21 Mr. Martin had a residence at the area of 117 and
22 East Burnside in an apartment complex there. Through
23 the course of the investigation, I learned that he
24 had been evicted recently from that apartment complex
25 and they had changed the locks.

Examination of William Winters

1 So using those keys, I wouldn't have been
2 able to use any of those keys to attempt to gain
3 access in to determine if those were his keys and
4 knife at that time.

5 Q Turning to some of the injuries, another
6 question that we developed, there has been some
7 discussions and in your -- in your investigation,
8 some understanding that Mr. Martin sustained two
9 incidences of less-lethal rounds that appeared to
10 have made contact with Mr. Martin.

11 When you attended the post-mortem
12 examination, was there any physical evidence to
13 corroborate that, in fact, the less-lethal rounds
14 made contact with Mr. Martin in evaluation or
15 examination of the body?

16 A On both legs, the right and the left, the
17 calf area, there was two circular, deep bruises --
18 not deep bruises, but you could tell they were dark,
19 dark in color that shows the impact of each
20 less-lethal round.

21 Q And while the less-lethal rounds were not
22 necessarily caught on video, is it your opinion,
23 based on your training and experience and what you
24 know about the less-lethal rounds; that the bruises
25 on the back of the legs is consistent with the

Examination of William Winters

1 interviews and accounts provided by Officer -- or
2 Acting Sergeant Kemple and Officer Bianchini,
3 consistent with being hit with less-lethal rounds?

4 A Yes, they are.

5 Q One of the other questions we had in the
6 course of this investigation is that, just out of
7 curiosity, how many officers -- per BO -- BOEC or any
8 sort of other record available to you in your
9 investigation, how many officers arrived at scene
10 from the moment the 9-1-1 dispatcher call came out to
11 the moment where shots are fired?

12 So not including the aftermath, but just
13 from the critical incident of the 9-1-1 call to the
14 shots-fired call, how many officers responded that
15 you could find?

16 A Approximately -- with our BOEC incident
17 number, I was able to go through the unit numbers and
18 approximately counted 23 different units that were
19 either -- had attached themselves to the call, had
20 been dispatched to the call, had arrived at the call.

21 At that time, some officers would've
22 possibly arrived and not updated themselves on the --
23 on the radio because it's an active situation going
24 on. They teach us if -- you know, unless you have
25 pertinent information, no reason to say, "Hey, I'm

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1 arriving. I'm arriving."

2 We have our -- our data computers -- mobile
3 data computers that we can hit "on scene." Sometimes
4 even when an incident's still actively going, people
5 won't even touch it and they'll just -- they know
6 that they're there.

7 They're -- they won't update themselves.
8 So it's just actively showing the people that had
9 attached to the call at that time or had been
10 dispatched was 23. And that won't say just
11 individual officers 'cause some of those unit numbers
12 have two officers in each -- in each vehicle.

13 Q Now -- and, obviously, in the course of
14 your investigation, not all 23 played a critical role
15 in the interaction with Mr. Martin at the front end
16 on 122nd or -- and even less played a role in the
17 interactions that occurred on Ash Street; is that
18 right?

19 A That is correct. And the reason for that
20 is, from the start of the scene to the end Mr. Martin
21 was dropping pieces of evidence or were -- people
22 that were involved in firing less lethal, those
23 people would break off to either block traffic, stop
24 traffic, stop and guard the evidence that was there
25 at the scene, to kind of keep people out.

Examination of William Winters

1 So that's why you would start with that
2 amount of -- high amount of number of officers and
3 slowly the numbers dwindled down at that time.

4 Q And officer -- in -- in addition to that,
5 Officer Bianchini or others may have moved vehicles
6 out of traffic as the situation evolved?

7 A That is correct. And we didn't want to
8 leave police vehicles unattended that people can
9 potentially take away from there. And you wanted to
10 have a safe scene, so that's why different officers
11 would stay at those positions.

12 Q Okay. Now, more importantly, in the
13 broader scope, given your experience as a homicide
14 detective, both in homicides and officer-involved
15 shootings, turning your attention specifically to
16 officer-involved shootings, what is the protocol
17 regarding a person who is actually involved in a
18 lethal use of force, whether it results in a homicide
19 or not? What is the protocol related to that person
20 at the scene once the dynamic situation has resolved?

21 A It's to relieve them of their position and
22 to get them out of the situation. They were just
23 involved in a traumatic incident. It's per our
24 policy that, as soon as it's safe to do so and the --
25 tactical and it's safe to do so, move -- remove them

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1 from the scene, get them to a safe spot, separate
2 them.

3 The only time that they would be questioned
4 is a -- is the safety questions that a sergeant might
5 ask if there was another person still outstanding or
6 what -- you know, other than that, that's the only
7 time that they would be directly questioned right
8 away. Other than that, they're just removed from the
9 scene.

10 So it's a safety for them, to get them to
11 calm down from that traumatic incident and keep them
12 separated at that time.

13 Q And given those dynamics and to maintain
14 the integrity of the investigation and their role,
15 are -- keeping in mind the trauma of it, are they
16 given somebody or some person to sit with them, not
17 in an investigatory capacity, but some other
18 capacity?

19 A Yes. A traumatic incident officer, you
20 know, co-officer, that will sit with them. Some of
21 these officers -- almost all of them that are TIC
22 members have been to training to help deal with
23 those -- they -- they don't ask any questions about
24 anything with the investigation.

25 They're just there to listen and to be

Examination of William Winters

1 there for any traumatic incidents if they need to
2 assist them with anything that they're asking for,
3 such as food, water. If they have a question that,
4 you know -- that maybe we possibly, as investigators,
5 can answer and go from there.

6 Q What about call loved ones?

7 A Call loved ones at that time. Not all at
8 the same time. It's, you know, just to give them a,
9 "Hey, this is what happened," not details, and just
10 talk to them and say that there's --

11 Q What about -- we've heard now from quite a
12 few officers who have given testimony in this
13 proceeding. Each of those officers gave interviews
14 at the scene or shortly thereafter by detectives per
15 the protocols you discussed earlier in your
16 testimony; is that right?

17 A That is correct.

18 Q So as -- as a matter of policy, at the time
19 of an incident and interview, is there any other
20 practices or protocols in place or directives in
21 place within the Portland Police Bureau as it relates
22 to their ability to talk about the case or the
23 investigation?

24 A So as soon as they are done giving their
25 interview to investigators, as soon as they step out

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1 with their union member, there is a homicide sergeant
2 or lieutenant, both of them, they will issue a --
3 it's a bureau policy -- communication restriction
4 order that they sign.

5 They're not allowed to discuss the case
6 with anybody that was involved in the incident or
7 officers or anybody outside the investigation. The
8 only time that they would be asked to talk about it
9 again is when they go to the internal review and also
10 when they come here to grand jury.

11 Q And -- and how long does that order stay in
12 place as it relates to their inability to talk to
13 either officers involved in the incident along with
14 them or just officers in the -- bureau-wide?

15 A Until the -- we have reached a grand jury
16 and concluded on the grand jury's findings.

17 MR. HANNON: Was there any other
18 followup -- oh, there was one.

19 BY MR. HANNON:

20 Q So going back to the video, were you --
21 well, let me ask this: Was there any concerns or
22 reactions in the apartment complex to Mr. Martin's
23 body being within the crime scene as you -- as you
24 and the Forensic Evidence Division and other
25 investigators tried to maintain the integrity of the

Examination of William Winters

1 scene, as you described earlier in your original
2 first testimony, how critical it is to maintain that
3 integrity and maintain that scene, was there any
4 issues with that with the apartment complex or the
5 residents?

6 A So as I talked about earlier on, we secure
7 the scene. In securing the scene, we put crime scene
8 tape up for an inner perimeter. We post officers in
9 there so people do not come and disturb the scene.

10 At the same time, this is a first-level
11 apartment complex; up above, a second level. We did
12 post officers up there, but we still were granting
13 access to the people in their upper apartments.
14 They -- they were hostile toward the police at times.

15 They did make comments about -- toward us
16 and toward investigators and the forensic evidence
17 people that the body had been there a long time, we
18 need to get him out of there. So we made
19 arrangements with the Oregon State Medical Crime
20 Lab -- or the Medical Examiner's Office to come and
21 remove the body.

22 Prior to doing so, we had the forensic
23 investigators, our forensic -- and the Forensic
24 Evidence Division come and take photos and
25 preliminary just pictures of the scene so we could

Examination of William Winters

1 remove the -- the body of the -- where he -- Mr.
2 Martin was at at that time.

3 Without getting general, like,
4 measurements, but that is where we have pictures so
5 we can outline and get estimates of where people were
6 at that time. So as a safety for the officers and a
7 safety for the investigators and for the care of Mr.
8 Martin, we had him removed at that time.

9 Q So while you have -- and -- and, to be
10 clear, where Mr. Martin came to rest is not
11 necessarily the exact positioning of where he was
12 when he was shot by Officer Doran using lethal force;
13 is that right?

14 A That is correct.

15 Q In other words, Mr. Martin, through the
16 course of your investigation and understanding from
17 witness testimony or witness accounts, his body was
18 still dynamic after being shot and moved?

19 A That is correct.

20 Q So with bearing that in mind and using
21 reference points both in the video and in the scans
22 of evidence taken -- and I'll -- and I'll do that
23 real quick for -- so we can know what we're talking
24 about.

25 A Mm-hmm.

Examination of William Winters

1 Q Obviously, from the video you were able to
2 conclude where Officer Doran was when he deployed
3 lethal force; is that right?

4 A That is correct.

5 Q So as we play the video --

6 A He's in front of that second door right
7 there.

8 Q So if you approach that corridor --

9 A Its --

10 Q -- there's one door. He's past the
11 first door?

12 A Yes.

13 Q Past the window between the first door and
14 another door?

15 A Yes.

16 Q And is right between the window and that
17 second door?

18 A That is correct.

19 Q And so that is -- would be one geographic
20 reference point that you're able to pinpoint --

21 A Correct.

22 Q -- as it relates to the positioning of
23 Officer Doran?

24 A Correct.

25 Q So then turning our attention to the scan

Examination of William Winters

1 of the scene, we have another -- so let's make sure
2 we turn on the -- we have another reference point.
3 So is -- if this is the -- is this the first -- is
4 this --

5 A Would you mind me standing on this?

6 Q Yeah, go ahead.

7 A This -- this is the first door. This is
8 the window that Mr. Hannon just talked about. This
9 is the second door. This would be where the -- or
10 Officer Doran is taking the kneeling position. And
11 you observed the post here, so he's right here next
12 to the -- the door.

13 Q And so then if we turn -- oh, sorry --
14 around.

15 A And if you go down, this is where -- right
16 here, what you're observing here is a compression
17 piece that was -- this compression shirt that
18 Mr. Martin had on, that was a piece of it that had
19 been cut off at -- his body was laying in the grass.

20 His top part of his torso was here. His
21 feet were right here at this time, on his back. So
22 if I have --

23 Q And we have -- it looks like we have a
24 bloodstain here as well?

25 A That is correct.

Examination of William Winters

1 Q So we refer -- reference back from that
2 bloodstain. Sorry. Which is right around here?

3 A Correct.

4 Q And to Officer Doran right around here?

5 A Yes.

6 Q Do you have an estimate, based on your
7 experience and what you observed, as to approximately
8 how many feet that was between Point A and Point B?

9 A Anywhere from 15 to 21 feet. And it's a
10 six-foot difference, but it's -- from where we saw
11 the body here on his back, I would estimate 21 feet.
12 It'd be about 18 feet on this side if he was laying
13 exactly where that -- that stain of blood was.

14 MR. HANNON: Is there any other questions
15 that anyone can think of that I have not asked?

16 Yes, sir.

17 A GRAND JUROR: That -- that knife, can
18 you -- okay. The knife was found partly open. That
19 knife, if it was fully closed, is there a way that it
20 would accidentally open?

21 THE WITNESS: I don't know. It does not
22 have a locking mechanism on it. It is just there
23 with the thumb -- use your thumb to push it open.

24 BY MR. HANNON:

25 Q So -- and to under -- expand upon that

Examination of William Winters

1 question, the knife as it was seized and found and
2 photographed is as it was at the end when the witness
3 officers who were there were cleared from the scene
4 and red tape put up?

5 A That is correct. That is where that knife
6 was. And we learned that that knife was closer to
7 Mr. Martin and had been picked up because they were
8 administering first aid and moved it over.

9 So, at that time, that's where we found it.
10 That's how it was positioned. We don't know if it
11 was open prior to that or close to that, but that is
12 how it was discovered and found.

13 A GRAND JUROR: Did you -- did the knife
14 itself have a clip attached to it?

15 THE WITNESS: So if we're able to show a
16 picture of it, it's got a clip where the keys are
17 hooked to it. So it'd be like the one that can clip
18 into your pants. That was the only clip that was
19 on it.

20 A GRAND JUROR: All right.

21 A GRAND JUROR: Does this clip allow it to
22 hang out the side of the pants?

23 A GRAND JUROR: That's what, I guess, I'm
24 asking. Is it sort of like a clip?

25 THE WITNESS: So I wish I had a knife that

Examination of William Winters

1 was like it. But it's that one that you can
2 standardly put in your pocket. Yes, it could hook on
3 the outside of your -- your pants or on a belt. That
4 same clip could sit there on the outside of your --
5 on your belt or your pants.

6 BY MR. HANNON:

7 Q So it doesn't matter -- so while --

8 A (Indiscernible.)

9 Q -- most people will put the knife on the
10 inside of their pocket with the clip on the outside,
11 it doesn't have to be that way?

12 A That is correct.

13 A GRAND JUROR: Is it like a carabiner
14 clamp or is it --

15 THE WITNESS: It is one that -- it's not a
16 carabiner. You're not going to have to close it.
17 It's just literally -- it looks like it's like a
18 little strap -- metal strap over the top that's
19 secured to the knife that just you can clip to it.

20 I wish I -- if we could show a picture, I
21 can describe it better. So what this is right here,
22 this is the clip that we're talking about in
23 question. This would be the one that you can
24 position into your pants right here. It would be the
25 same clip that you could use that hooks to your --

Examination of William Winters

1 your belt. You could clip it the same way.

2 A GRAND JUROR: Like this kind of a clip?

3 Similar?

4 A GRAND JUROR: Just like a money clip.

5 THE WITNESS: Yeah, just like a money clip.

6 Not that kind of clip.

7 A GRAND JUROR: Oh, like a money clip. Oh,
8 got you. Okay. I see what you're talking about.

9 MR. HANNON: Just for the record, you were
10 pulling out a key chain --

11 A GRAND JUROR: Yes.

12 MR. HANNON: -- that allowed the clip to --

13 A GRAND JUROR: Yeah.

14 MR. HANNON: -- buckle in and buckle out,
15 just so we're clear.

16 A GRAND JUROR: I have a question.

17 MR. HANNON: Yeah, absolutely.

18 A GRAND JUROR: What -- is this a car key
19 fob that's attached?

20 THE WITNESS: This is a key fob. This is a
21 house key. And this is, like, a -- a -- like, a
22 master lock kind of key for, like, a storage lock or
23 something. And this is, like, a can opener --

24 A GRAND JUROR: Mm-hmm.

25 THE WITNESS: -- position that you have.

Examination of William Winters

1 BY MR. HANNON:

2 Q Do we -- are we aware of any car or
3 anything that --

4 A The only --

5 Q -- Mr. Martin --

6 A -- information that I was able -- the day
7 after when I made notification with the family was
8 the family stated Lane had two vehicles and -- but
9 that he had just purchased them.

10 They don't know what kind of cars they
11 were. His girlfriend said the same thing: He had
12 purchased some vehicles, but don't know what kind of
13 vehicles they were. We were not -- never able to
14 locate any vehicles. Nothing was registered in his
15 name.

16 Q And that's the account the family and the
17 ex-girlfriend gave you, but that was not
18 corroborated?

19 A That is correct.

20 Q So for -- for all you know, that is
21 information they received from Mr. Martin, but -- but
22 they may not have corroborated it?

23 A That is correct.

24 A GRAND JUROR: So was that fob tried on
25 the Jeep?

Examination of William Winters

1 THE WITNESS: No.

2 BY MR. HANNON:

3 Q That's -- that's a great -- excellent
4 follow-up question 'cause that's one I asked you.

5 A Yes.

6 Q Were you able to establish who the
7 registered owner of the Jeep was?

8 A So we had put out the information on the
9 news about additional information and trying to
10 contact the owner of the vehicle. Central Precinct
11 received a phone call multiple days later stating
12 this female was the daughter of the registered owner
13 and she's the one that drives the car.

14 She told Central officers that answered the
15 phone that she had lost a backpack and a pair of
16 shoes from her car. We never located this backpack,
17 never located these shoes. At that time, I attempted
18 to contact her multiple times through e-mail and
19 phone and never received a phone call back.

20 Q And -- and what was her name?

21 A I have to look it up. Hold on.

22 Q Yeah. And while you're looking at that, in
23 the course of that followup, was there any connection
24 or information that she knew or had a relationship
25 with Mr. Martin?

Examination of William Winters

1 A Say that again?

2 Q Did she have a relationship with

3 Mr. Martin --

4 A She --

5 Q -- or did she know Mr. Martin?

6 A She did not. What I'm referring to is a
7 picture that I took from my e-mail. And her last
8 name -- and I'll spell it for you -- is Z-h-a-o.
9 First name is X-i-r-a-n. She's a female Asian, date
10 of birth, 11-3 of 2001. And she lived off of 124th
11 Avenue.

12 A GRAND JUROR: Do we know what brand of
13 car that key fob belongs to?

14 THE WITNESS: It was just a generic key
15 fob.

16 A GRAND JUROR: It was generic?

17 THE WITNESS: Yes.

18 A GRAND JUROR: Okay.

19 BY MR. OVERSTREET:

20 Q And so, Detective Winters, I -- I want to
21 know if there's a possible explanation for this knife
22 and set of keys possibly being separated at any given
23 time. So my question is: The way that's attached to
24 the knife, is that simply, like, a little leather
25 loop that is slipped over?

Examination of William Winters

1 A Yes, it is.

2 Q Okay. And that's -- we know already that's
3 how these keys were found. So because we've had
4 testimony that that knife was possibly displayed
5 earlier or a knife was --

6 A Mm-hmm.

7 Q -- displayed earlier, my question is, is if
8 those keys were, say, in someone's pockets and the
9 knife was slipped into the pocket, in your just view
10 of these -- these two items, is it possible the knife
11 incidentally attached to the keys?

12 A Yes.

13 Q So maybe then it wasn't always connected
14 the way that we see it here?

15 A That is correct.

16 MR. OVERSTREET: Okay. I don't think I
17 have any other questions. Thank you.

18 MR. HANNON: Anybody else?

19 Okay. Okay. That should do.

20 THE WITNESS: Okay.

21 MR. HANNON: (Indiscernible.)

22 THE WITNESS: Thank you.

23 A GRAND JUROR: Thank you.

24 MR. HANNON: Stand right there and raise
25 your right hand --

Examination of Bradley Clark

1 THE WITNESS: Sure.

2 MR. HANNON: -- and we'll swear you in.

3 **BRADLEY CLARK**

4 Was thereupon called as a witness; and, having been first
5 duly sworn, was examined and testified as follows:

6 **EXAMINATION**

7 BY MR. HANNON:

8 Q And could you start by first stating and
9 spelling your name for the record?

10 A Yes. My name is Bradley Clark;
11 B-r-a-d-l-e-y; Clark, C-l-a-r-k.

12 Q And how are you currently employed?

13 A I'm a police officer with the City of
14 Portland.

15 Q And how long have you been with the City of
16 Portland?

17 A For about 14 years.

18 Q And what is your current assignment with
19 the City of Portland?

20 A I am the -- a lead control tactics
21 instructor for the Portland Police Bureau.

22 Q And how long have you been in that
23 position?

24 A I've been in that role for a year now.

25 Q And so let's -- before we go into what that

Examination of Bradley Clark

1 means, what -- in your -- so you said 14 years with
2 the City of Portland?

3 A Yes, sir.

4 Q When arriving with the City of Portland,
5 can you outline the training and experience you had
6 in becoming a police officer?

7 A Sure. I -- after high school, I joined the
8 United States Coast Guard. I was on a law
9 enforcement team there for four years. I came out to
10 Portland after that, got an associate's degree from
11 Portland Community College in criminal justice. And
12 then I was hired on with the Portland Police Bureau.

13 When you get hired on as a police officer,
14 you go to a basic state academy, which, at the time,
15 it was ten weeks. Now it's up to, I believe, 16
16 weeks. And you come back to Portland, go to an
17 advanced academy. At the time I went through, it was
18 18 weeks. It's now ten weeks long.

19 Q And in addition to basic academy and
20 advanced academy -- and -- and maybe this did not
21 exist at the time, I don't know -- was there any sort
22 of field training officer program that kind of eased
23 your way into the role of a law enforcement officer?

24 A Yes, exactly that, field training program.
25 For the first 18 months that you're a police officer,

Examination of Bradley Clark

1 you're assigned a coach and you're basically given
2 on-the-job training and evaluation the entire period
3 of your probation, is what we call it, the first 18
4 months that you're in.

5 Q And then when you worked for the City of
6 Portland your 14 years what are some of the various
7 positions you've had with the City of Portland?

8 A I worked mainly on patrol for -- for the
9 first 13 years. Two years of that, I was on horse, I
10 was on the mounted patrol.

11 And since 2011 I've been a satellite
12 control tactics instructor, which means I would go
13 out and help with the city training, a day here and
14 there throughout the year for in-service or the
15 advanced academy.

16 Q And when you were a satellite control
17 officer did you, yourself, have to receive any
18 additional training in addition to what would
19 normally -- normally be received by Portland Police
20 Bureau officers who are out on the street day to day?

21 A Yes, sir. That was a two-week, 80-hour
22 course at the time.

23 Q And since that was going back in 2011, in
24 the period between 2011 and to today, as a satellite
25 instructor, would you have to keep abreast of

Examination of Bradley Clark

1 changes, evolutions, modernizing of techniques and
2 various forms of use of force and training?

3 A Yes, absolutely. If -- if there was
4 significant changes, we would typically have an
5 in-service. And you would go there with other
6 control tactics instructors and given that
7 information or training.

8 Q Now, you've mentioned as a state -- or
9 Portland city-wide control tactics officer and
10 satellite control officer. Just briefly outline for
11 the grand jury, what -- what does that mean?

12 A Control tactics is -- so we have several
13 different disciplines of training. Control tactics
14 is specific to physical control.

15 So that would be if -- if someone were
16 fighting with you, how -- how -- how do we control
17 that? If we're placing someone in handcuffs,
18 searching, those types of things, that's specific to
19 the control tactics program --

20 Q And --

21 A -- up to lethal force.

22 Q Okay. And when you're doing that as a
23 satellite instructor, is that training that you are
24 advising and assisting officers within your own
25 precinct or area?

Examination of Bradley Clark

1 A It can be. We have some trainings that
2 happen at the precinct level, but mostly you would go
3 and assist with a bureau-wide in-service or advanced
4 academy.

5 Q Okay. And was there any sort of
6 preparation or kind of discussions with the city-wide
7 instructor to formulate those lesson plans and
8 formulate those trainings so that you were prepared
9 to assist officers as they got additional training
10 with the city instructor?

11 A Sure, sure. We -- the lead control tactics
12 instructor when I was a satellite would come to -- to
13 their top instructors and -- and ask for input on the
14 lesson plans and what the best practices should be,
15 and what -- what it best looks like to -- to
16 physically control a human being, which is a
17 difficult, difficult problem.

18 Q Now, turning your attention to your role in
19 its -- in your current position, what -- what does
20 that mean? What do you do?

21 A Right now, I -- I deal with the advanced
22 academy. So anyone that's new to Portland, they
23 come -- like I said, from -- from the basic academy,
24 they come back to Portland. And at the advanced
25 academy, we have about 40 hours with them. And a lot

Examination of Bradley Clark

1 of it is -- is physical control.

2 A lot of it revolves around wrestling, to
3 be honest, but we're actually -- we've gone away from
4 a lot of the striking type of martial arts. It
5 didn't ever provide great control. We are now more
6 into a Brazilian jujitsu, western wrestling program
7 where we're actually physically controlling people
8 without having to strike them and at the lowest
9 level.

10 Q Okay. And you mentioned that the advanced
11 is -- is when people join Portland. Do you -- does
12 that advanced academy then apply to not only new
13 officers who go through the basic academy; but, say,
14 lateral officers from out of state or out of county
15 who -- or out of -- within county, but a different
16 jurisdiction, comes into the Portland Police Bureau
17 to get that additional training?

18 A Yes, sir. All the laterals that come
19 through also go through our advanced academy.

20 Q Now, in that advanced academy are you
21 teaching them various levels of use of force when
22 confronting different situations?

23 A Sure. Absolutely. So we really have a few
24 different levels. We used to have a continuum, but
25 we don't any longer. If someone did this, we

Examination of Bradley Clark

1 would -- we would have specific things that we were
2 allowed to do. And that was removed a few years back
3 and we've now moved to a reasonableness standard,
4 which is a federal standard.

5 It's a little bit more gray, but we don't
6 have a specific, "This person does this, we do that."
7 We view a response by a police officer in the -- in
8 the -- from the lens of if it was reasonable to do
9 that as opposed to having a specific continuum.

10 But that goes from just giving verbal
11 commands to pepper spray, Taser, ASP baton to
12 physical control. We don't -- the control tactics
13 doesn't -- per our program does not typically deal
14 with our less-lethal munitions --

15 Q Okay.

16 A -- but that is another option and then up
17 to deadly force.

18 Q Okay. So let me take a step back on some
19 of that. First, going back to the advanced academy,
20 when people come into the advanced academy, whether
21 they're new officers out of basic academy or lateral
22 officers with years of experience, but coming into
23 advanced academy, is advanced academy teaching
24 officers to what is the Portland Police Bureau's
25 policies and procedures and protocols as to what the

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1 Portland Police Bureau expects of their officers when
2 confronting these various issues?

3 A Yes, absolutely. We train specifically to
4 the Portland Police Bureau policy, which is more
5 restrictive than what state law would allow.

6 Q So, in other words, if you have someone who
7 is a lateral officer, say, from Michigan or Texas or
8 a new officer who grew up in a different community,
9 different from the City of Portland, they go through
10 the basic academy and learn what everybody learns in
11 Oregon, but then they have to go to the advanced
12 academy to learn specifically what Portland expects
13 of their officers in these issues of use of force?

14 A Absolutely, yeah.

15 Q Now, you -- turning your attention back to
16 you mentioning there's no longer a continuum, but
17 under a standard of reasonableness, what is the big
18 hurdle or concern or problem with an idea of a
19 continuum of "if this, then that and if this, then
20 that"?

21 What -- what do you know, based on your
22 training and experience as an officer and instructor,
23 the problems that arise when coming up with a
24 box-checking mechanism with scenarios?

25 A So, for example, if we're talking about if

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1 someone presents in a certain way -- so we -- we use
2 the term, "active aggression." That's someone is
3 actively attacking you. That's a standard of -- of
4 the -- of some -- a way someone could present to you.

5 If someone displays active aggression, we
6 have these things, like the ASP baton or closed-fist
7 strikes or the Taser deployment. So in a
8 continuum-based model, if you have a 90 year old that
9 has no physical ability and they display active
10 aggression to you, these tools are available to you.

11 Under a reasonableness standard, any
12 reasonable officer would say, "I wouldn't have to use
13 these tools necessarily. I could just physically
14 control this person pretty easily or find another way
15 to deal with this." And that's reasonable.

16 Whereas using these options that are
17 available to you under active aggression, that
18 wouldn't really be reasonable, so --

19 Q So --

20 A -- that's how the continuum -- we moved
21 away from the continuum effectively.

22 Q So if I'm understanding correctly, without
23 the same experience that you do, what I'm hearing is
24 that it's -- it's too complex of a scenario to
25 determine if a -- if something happens in Column A,

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1 we revert to Column B?

2 A Yes.

3 Q There's too many dynamics or factors in
4 play to make that kind of simple -- simplified
5 decision making?

6 A Sure.

7 Q So let's talk about use of force. While
8 there's no continuum, is there a spectrum, if you
9 will, on the low end of use of force all the way up
10 to and leading into the higher end, which would be
11 obviously the worst end --

12 A Sure.

13 Q -- lethal force?

14 A Absolutely.

15 Q So why don't you outline just kind of for
16 the ladies and gentlemen of the grand jury, what are
17 some of the uses of force that exist, starting at the
18 low end, that officers have available to them to try
19 to gain compliance or make sure people follow orders
20 or don't present a danger to others or themselves?

21 A Sure. The lowest level, we would either --
22 you could call -- say verbal commands, but that's not
23 really a use of force. If we actually go into use of
24 force, that would be just physically controlling
25 someone, if I put on hands on them and they struggle

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1 with us.

2 I mean, we physically put their hands
3 behind their back and into cuffs. That would
4 probably -- probably be the lowest level of use
5 of force.

6 Q And I appreciate you clarifying that
7 because it's an important distinction. But, as a --
8 an instructor, do you teach then not levels of force,
9 but tactics to officers so that they may take
10 approaches in confronting somebody that makes it
11 unnecessary to get to even using levels of force?

12 A Sure.

13 Q In other words, what are some tactics
14 available to officers so they don't even have to
15 potentially use lower ends of -- of use of force?

16 A Sure. And that's just gauging verbal
17 compliance. So if you would ask someone to turn
18 around, "Put your hands behind your back," and then
19 you see if they're obeying your commands and then
20 maybe walk up and place handcuffs on them and then
21 the force event never actually happens.

22 Q What about just simple police presence? Is
23 that --

24 A Presence. Absolutely.

25 Q -- is that an approach?

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1 A Yeah.

2 Q Now, the way in which you talk to somebody,
3 not only verbal commands, but the tone or inflection
4 of the voice, is that something that is taught to
5 officers at both the basic and advanced academy as
6 ways to gain compliance?

7 A Sure. Yeah.

8 Q Now, you mentioned that putting hands on is
9 one level of -- as we enter into use of force. What
10 are some other tools available to officers that
11 they're instructed on to gain compliance if hands on
12 or verbal commands are not enough to gain compliance?

13 A Sure. So what we -- beyond putting hands
14 on someone, we carry a can of pepper spray, which is
15 an irritant to the eye. It can affect somebody's
16 ability to see and it's painful.

17 We have an ASP baton, which is a metal
18 baton that we use to strike in meaty portions of the
19 body, which we very rarely use 'cause it's not that
20 great of a tool.

21 It doesn't necessarily gain compliance that
22 often. We have a -- an electronic control weapon,
23 which is commonly known as a Taser. We have
24 less-lethal munitions, which is a sponge fired --
25 it's effectively a rubber bullet. It's a sponge

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1 round fired from a -- a large launcher.

2 It gives us some stand off and a
3 less-lethal option. I think that's all we carry
4 for -- for force options outside of deadly force, a
5 firearm.

6 Q Now, given the various tactics and then
7 evolving into various uses of force, beyond just
8 teaching them the mechanics of how these things work,
9 are there ways in which officers are trained to
10 figure out the most effective or best practices or
11 reasonable behavior when trying to gain compliance
12 from people out in the community when they're not
13 obeying orders or not being compliant or presenting a
14 threat?

15 A Sure. We -- we do a lot of scenario-based
16 training at the Portland Police Bureau. We have --

17 Q When you say "scenario-based training,"
18 what is scenario-based training?

19 A So we have a -- what we call a scenario
20 village, so it's a mock little town where officers
21 when they're in training will be sent into a scenario
22 where they have to deal with -- with a person like
23 that.

24 Maybe they -- it can be as low as a
25 compliant traffic stop that they go into or to as

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1 high as a deadly force encounter, depending on the
2 different scenarios.

3 But officers get a lot out of that. And we
4 can develop scenarios in -- in any direction to
5 address those very things, how -- what's -- what's an
6 appropriate action.

7 And we'll send an officer through these
8 things and then we'll evaluate every little step
9 afterwards and talk them through it and say, you
10 know, "This was -- this was a good thing you did
11 here. Let's talk about why you did this and is that
12 the best way or could we have done something a little
13 differently?"

14 Q And in those scenario-based trainings, do
15 you have either other officers or persons acting as
16 actors to, you know, as best as possible, create a
17 scenario that you, as an instructor, know or other
18 officers have shared with you experiences that
19 they've been through that created any challenges or
20 problems in trying to make the best possible
21 decision?

22 A Absolutely, yes. Officers are acting in
23 the role of maybe a suspect or a victim in all of
24 these scenarios. And a lot of the scenarios that we
25 develop are from some police incident that -- that

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1 occurred somewhere.

2 We try not to use Portland-specific events
3 because we wouldn't want to put officers through
4 something that -- that they had to do here.

5 Q Now, is there a policy or procedure that
6 drives the Portland Police Bureau's policies
7 regarding the sanctity of human life in informing
8 that decision-making process and training so that
9 officers can come up with the best practices and best
10 behavior when confronting people who are not
11 complying with orders or presenting a danger to the
12 community or officers on their own?

13 A Sure, sure. We -- we have a sanctity of
14 life policy. It's in our directives. So the Bureau
15 takes that very seriously, that each -- that every
16 human life has value.

17 Beyond that, our use-of-force standard
18 is -- is higher, as we said before, than the state
19 standard, our use of deadly force. And so -- and
20 that -- for that very reason, because of the sanctity
21 of life or, also, we don't want to be on the line of
22 what is legal and what is not.

23 Q So let me -- let me take a step back from
24 that. So if -- if I'm an officer, is it possible
25 that I could engage in lethal use of force that,

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1 based on your training and your understanding both of
2 Oregon State law and federal law as regards to lethal
3 use of force for law enforcement officers, let's say
4 I'm an officer and I engage in conduct that would be
5 in compliance with those laws, is it possible for me
6 to engage in that conduct, but still run afoul or
7 violate the Portland Police Bureau policies and
8 protocols related to lethal force?

9 A Absolutely, yes.

10 Q Okay. And why is that in place? Why does
11 the Portland Police Bureau have a protocol or policy
12 that is separate and apart beyond what is minimally
13 required by state and federal law?

14 A Well, kind of like what -- what I was
15 saying before, we -- we want to be well within our
16 legal authority when we're using that kind of serious
17 force and also because of the sanctity of life.
18 We -- we don't take that lightly.

19 We don't take the use of deadly force
20 lightly in the Portland Police Bureau. And I don't
21 know that state law does either, but our -- our
22 standard is just pushed a little bit further out
23 because we treat it very seriously. It's the most
24 serious thing that a police officer might ever have
25 to do in their career.

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1 Q So going back to the scenario-based
2 training, you mentioned that, you know, there's --
3 there's use of force and then there's lethal use of
4 force.

5 Is there training that goes on in -- in
6 coming up with these dynamics or scenarios for
7 officers to train themselves under in trying to
8 decide what is an appropriate course of action when
9 confronted with escalating behavior that may force
10 them to make a decision to use lethal use of force?

11 A Sure. Yeah. All -- that's mainly --

12 Q And is that --

13 A -- what our training is.

14 Q Okay. And let me ask you this: In -- in
15 some of those trainings, does it also involve
16 suspects or persons that may use knives?

17 A Absolutely, yes. That's something that we
18 have to deal with. A lot of people in Portland are
19 carrying knives all the time.

20 Q And is -- and, obviously, I presume that
21 there's also scenarios or -- or trainings involving
22 people using firearms?

23 A Yes.

24 Q Turning our attention back to knives,
25 what -- what are some of the things that you're

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1 training officers on and what -- what is your
2 understanding of the expectations of officers as to
3 how dangerous knives can be to officers or the
4 general public when they're being used or threatened
5 to be used?

6 A Well, if they're -- if they're being used
7 or threatened to be used, if you're within the
8 effective range of that weapon, it's just as
9 dangerous as a firearm. There's -- there's no
10 difference. They're both going to make holes in
11 you --

12 Q Mm-hmm.

13 A -- can cause, you know, some serious
14 problems. We see an example. Any street officer
15 that's worked here for a little while has seen their
16 fair share of stabbings and can testify to the -- the
17 damage that a knife can do, the -- the horrible
18 damage.

19 Q In addition to the damage that a knife can
20 do, you -- you mentioned earlier that you -- you
21 teach about control tactics, going hands on. But
22 what are some of the other aspects of a knife?

23 Like, how fast can somebody move with a
24 knife and -- and accelerate or increase the lethality
25 or risk of lethality in involving knives?

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1 A Distance-wise?

2 Q Yeah.

3 A They -- if you don't have anything in
4 between you and somebody that's, like, actively
5 attacking you with a knife, they could be 40, 50 feet
6 away from you and -- and you are in that realm of
7 deadly force.

8 This person's going to be on you within
9 seconds. And if you don't act, then you -- well,
10 you're going to be on the losing end of that fight.

11 Q And --

12 A We don't have a set standard for distance.

13 Q No, I understand that.

14 A -- when it comes to a knife.

15 Q And is it -- does that go back, again, to
16 scenarios and the fact that anything is possible and
17 every -- every situation is different?

18 A Sure. Absolutely. And it would be
19 different of how fast, is this person aggressing
20 towards you, what is in between you, what are their
21 behaviors. Every little thing about the scenario,
22 you're going to have to be evaluating.

23 Q And -- and let's talk about that again
24 because you're an instructor and you're trying to
25 teach these practices and uses of force under various

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1 scenarios and including lethal scenarios or scenarios
2 that would require lethal use of force.

3 But in scenario-based training, is there
4 any difference in your mind, based on your experience
5 as an officer and speaking with other officers,
6 between real-life events and the scenario-based
7 training that you're trying to teach to officers?

8 A Yeah. Scenario-based training is good and
9 it gives you some stress inoculation and some
10 experience in maybe events that we couldn't otherwise
11 expose an officer to.

12 But when you're dealing with a true
13 life-and-death situation, it is -- it is much more
14 intense. And we can't -- we can't train to that.
15 There's no way to actually do that.

16 Q And you mentioned trying to inoculate them
17 from those situations and scenarios. And why is
18 that? What -- what -- from your experience both as
19 an officer and in speaking with officers who've been
20 involved in those scenarios, what are some of the
21 natural functions that occur to a person who finds
22 themselves confronted with real scenarios that create
23 the risk of needing to use lethal force versus the --
24 the town that you've created to create those
25 scenarios? What are some of the body's responses in

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1 trying to react to those situations?

2 A Well, if you've never been through an
3 experience that is shocking to you, a lot of the
4 times you'll hear the term "fight or flight." And
5 most people have heard that, fight -- fight or
6 flight. But there's a third one, and it's freeze.

7 And that one is very, very common for
8 people that don't -- have never been exposed to
9 something so intense, that they -- they don't know
10 where to put it.

11 They don't know how to deal with it and
12 they just stop and freeze and they're in place,
13 trying to figure it out, trying to -- to process the
14 situation. But it's -- if you've never -- the
15 scenario-based training helps with that.

16 Q Going back to -- well, and scenario-based
17 training may help with that, but -- but does it ever
18 really fill in the same as a real-life experience for
19 an officer?

20 A No, you'll never know. Even if someone
21 performs really well in a scenario-based environment,
22 it doesn't mean that they will go out and -- and
23 perform that effectively in -- in a -- in the
24 true-life deadly force confrontation or even physical
25 confrontation if we're not talking about deadly

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1 force.

2 Q Going back again into the knives situation
3 and, as you mentioned, Portland in particular is
4 finding themselves increasingly -- Portland officers
5 are finding themselves increasingly confronted with
6 people with knives --

7 A Sure.

8 Q -- have you, yourself, observed or talked
9 with officers who've had to confront real-life
10 scenarios involving knives?

11 A Absolutely. I've confronted many myself
12 and I've been involved in -- in those situations
13 personally, so I know how intense they can be.

14 Q And while there are certain tools available
15 to officers and I imagine officers are also able to
16 wear Kevlar, are those tools and is that Kevlar fool
17 proof in preventing any of the damage that a knife
18 could do?

19 A No. They -- they don't protect you at all
20 from a knife attack. Our body armor does -- will not
21 stop a knife. It will go through it very easily.

22 Q And, obviously, does the Kevlar or body
23 armor cover all aspects that present the risk of
24 lethal wounds to people from a knife, such as the
25 neck, the arteries in the legs or arms?

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1 A No, it doesn't. It doesn't protect at all.

2 Q And, unfortunately and tragically, in
3 Portland specifically, have we seen real-life
4 incidences where, you know, non-sworn officers have
5 tried to use nonlethal force to prevent an attack,
6 specifically on a MAX train --

7 A Oh. Oh, yeah.

8 Q -- where that was not -- proven not only
9 unsuccessful, but the people who tried to use lethal
10 force -- or nonlethal force themselves were
11 tragically killed --

12 A Yeah.

13 Q -- or nearly killed?

14 A Yeah. A few years back, we had that --
15 that very incident happen. I -- I don't know if
16 anyone in the room's familiar with it, but -- but
17 there was a man that was confronted on a -- on a MAX
18 train that was making some racial slurs towards some
19 young ladies.

20 And three people tried to intervene on --
21 on behalf of them. And he had a -- he had a blade
22 and he very quickly stabbed the three individuals in
23 the throat. Two of them died immediately. And the
24 third one's very lucky to have survived.

25 Q And that was something that was captured on

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1 video. Had -- have you ever been able to watch that
2 video?

3 A I have not, but I -- I -- I haven't watched
4 it personally, but I've talked to the forensic
5 evidence team that viewed it. And they said that it
6 was less than two seconds that the attack happened.

7 Q So, in other words, not only does a knife
8 create those risks, but it can happen rather quickly?

9 A In the blink of an eye, yeah, before you
10 can react to it, if you're within range of that
11 attack.

12 Q Now, in addition to the sanctity of human
13 life policy that the Portland Police Bureau has and
14 instructs its officers, including, but not limited
15 to, even the suspects that they're investigating, is
16 there also a duty to care or intervene that's also
17 part of the Portland Police Bureau policies?

18 A Yes. We have a duty to act policy,
19 specifically a -- what is it? A standard of
20 performance policy, but it effectively states that an
21 officer is expected to take appropriate action when
22 there is a crime, a disturbance or any condition that
23 requires our response. We are required to take
24 appropriate action.

25 Q So, in other words, while you don't want to

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1 put any officer's independent decision making on the
2 spot, in the general --

3 A Mm-hmm.

4 Q -- when an officer sees someone in distress
5 or in danger, it is expected a Portland police
6 officer to intervene and protect --

7 A Yes.

8 Q -- not only that person, but then also to
9 try to use whatever means necessary to prevent the
10 threat, but also protect that person's life?

11 A Protect that individual as well.
12 Absolutely, yes. That's our fundamental job. That's
13 why we're here.

14 Q As -- as an instructor, have you been to
15 any trainings or educations regarding use of force in
16 the sciences of action versus reaction?

17 A Yes. I -- I've been through an
18 organization called the Force Science Institute.
19 They're a scientific agency that they specifically do
20 work dedicated to human performance and specifically
21 officer-involved use of deadly force mostly is what
22 their work is.

23 Q And from your training there, in
24 conjunction with your examination and discussions
25 with Portland Police Bureau officers in both

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1 scenarios and incidences they've actually been
2 involved in, can you explain for the grand jury, what
3 is that concept of action versus reaction?

4 A Action versus reaction is just a scientific
5 reality that if you are reacting to someone's
6 movement, you are at a disadvantage. So a person
7 that -- if you put people -- two people standing
8 across from each other and you tell one person to
9 point at -- point at the other, the person that is
10 going to initiate that movement will always be able
11 to beat the other person.

12 They will always be at an advantage if --
13 if you're having to react to someone's movement as
14 opposed to being the one making --

15 Q And why -- what relevancy, if any, does
16 that have as it relates to officers and their
17 decision-making process?

18 A Well, it has -- it has a lot of
19 consequences as far as what can a person do --
20 what -- effectively, what it -- it does is it -- we
21 don't want to be in a position where someone is
22 making a movement or taking deadly force action
23 against us and -- and we're waiting for that to
24 happen because we are going to lose that battle
25 every time.

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1 So I guess it would be that you don't --
2 this idea that you don't fire until fire -- fired
3 upon is -- that's a losing battle. That's not
4 reality. That's not our training. That's not -- we
5 can never win that fight.

6 Q So going back to that, when confronting
7 with those scenarios, they never just start -- well,
8 they rarely just start with that scenario. There's a
9 series of decisions that people make leading up to
10 these experiences; is that right?

11 A Yes.

12 Q So starting from the beginning when an
13 officer arrives at a scene of some sort, is an
14 officer allowed to just dictate how things are going
15 to go or are they constantly reacting to the scene as
16 they arrive to it?

17 A It depends on the situation, but typically
18 you're reacting to what -- if a person will be
19 compliant with a command or -- or will respond
20 reasonably to -- to whatever you're doing, you're
21 just having a conversation with the person, you can
22 maybe dictate it.

23 But if the person has no intention of -- of
24 complying with -- with what you're asking them to do,
25 then we're going to be reacting the whole time.

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1 Q So -- and in going back to this concept of
2 responding to a scene, is there training -- and we
3 kind of talked -- touched upon this, but we didn't
4 really get into the details of it.

5 Is there training that occurs at the
6 advanced academy at the Portland Police Bureau with
7 concepts and tools such as deescalation?

8 A Sure, sure.

9 Q And what -- and what is deescalation and
10 what are -- what are they trying to train officers to
11 do to deescalate situations?

12 A Well, if you have an intense situation,
13 obviously we don't want to come into it and make it
14 worse or intensify it. So deescalation is just the
15 idea that we're going to -- if we -- if at all
16 possible, make the situation get less intense as
17 opposed to more intense.

18 And that can be as simple as talking to
19 someone calmly and not screaming orders at them or
20 giving them time, distance, calling in resources,
21 isolating a person from others, that sort of thing.

22 Q And while that is a concept that the
23 officers are trained to do and want to do, does that
24 mean that it stays static in that regard, that it
25 stays deescalating? Or do they have to re-evaluate

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1 it as the scenario evolves?

2 A It -- it all depends on the reactions we
3 get while we -- we're -- we're reacting to what the
4 person that we're dealing with is doing. So we can't
5 always deescalate. It -- it's just not possible.
6 And our policy states that as well. If time and
7 circumstances reasonably permit, we will attempt to
8 deescalate.

9 Q Now --

10 A So --

11 Q -- in that -- in the -- continuing with
12 that thought process, in addition to -- we're talking
13 about an officer arriving at scene and just dealing
14 with another person and trying to react and come up
15 with a best possible way to deal with that person in
16 a way that protects their life.

17 A Yeah.

18 Q But are there oftentimes in these scenarios
19 or real-life examples where officers have to respond
20 to more than just the person they're interacting
21 with? In other words, are these done in a vacuum or
22 are these done --

23 A No --

24 Q -- in a community?

25 A -- absolutely not. I mean, it's always

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1 in -- not always. I mean, you could respond to a
2 home where a person's in there alone and -- and
3 that's a very different situation than if a person is
4 in a crowded stadium.

5 Q Mm-hmm.

6 A It just depends. Every -- every situation
7 is different.

8 Q But are those things that officers need to
9 be mindful of when confronting someone that they're
10 responding to?

11 A Absolutely. And that's going to play a big
12 part in deescalation, if we can deescalate. Truly,
13 deescalation happens when there is not an immediate
14 threat to anyone else around you.

15 If there's an immediate threat or, you
16 know, some kind of immediacy to this situation,
17 you're going to have to deal with that. And there's
18 not going to be the time or the circumstances are not
19 going to permit deescalation.

20 Q And how often do these circumstances -- is
21 there -- is there one quantity or -- of time to
22 suggest that, okay, it's evolving from Point A to
23 Point B or is every scenario and circumstance
24 different that an officer finds him -- him or herself
25 confronting?

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1 A They're mostly different. I mean, you can
2 go to similar calls here and there. But -- but you
3 never know what you're going to get.

4 You never know the reaction that you're
5 going to get from the person you're dealing with, but
6 for the most part, you -- you just have to take
7 what -- what you -- whatever's given to you when you
8 show up on the scene and do your best.

9 Q Now, when the scenes escalate from
10 responding to a scene and just mere presence and
11 conversation and space and tone of voice --

12 A Mm-hmm.

13 Q -- is not gaining compliance or creating --

14 A Sure.

15 Q -- a safe scenario either for the person
16 who finds themselves the subject of the call --

17 A Mm-hmm.

18 Q -- or the officer or any surrounding
19 community members, are there other tools or scenarios
20 or training that the officer has to try to gain
21 compliance in those situations?

22 A And that's when we're starting to talk
23 about our less-lethal options, all the way up to
24 lethal options, depending on the situation that
25 we're -- we're dealing with.

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1 Q In addition to the individual officer's
2 decision making, as -- as officers are trained
3 individually, is there also any sort of training or
4 concept of the idea of having support or cover
5 officers or additional officers to assist --

6 A Sure.

7 Q -- to --

8 A We're --

9 Q Go ahead.

10 A Yeah. We're very resource oriented at --
11 at this point in the Portland Police Bureau. So
12 we -- we will bring in specialized crisis trained
13 officers, canine officers, officers -- not everyone
14 carries the less-lethal-munition launchers. So they
15 might respond to the scene.

16 We might have designated lethal cover with
17 a rifle. We have a behavior health unit. Sometimes
18 they're available. We have social workers.

19 And the -- if -- if it's an active scene
20 where there's a possibility of violence, we wouldn't
21 call them in. They wouldn't be involved. But we
22 have a lot of different resources (indiscernible).

23 Q They -- you mentioned crisis. Is there a
24 crisis intervention training that every officer has
25 to go through?

223

1 A Yeah. Every officer now, I think for about
2 the last ten years, goes through a crisis
3 intervention training, a 40-hour block of training
4 where they just learn or -- or are exposed to dealing
5 with people in -- in mental health crisis.

6 And, as a Portland police officer, you're
7 going to deal with that and become pretty good at
8 that just in general in your career because you deal
9 with it so much.

10 Q And is there an ECIT?

11 A Yes. And the --

12 Q And what does ECIT stand for?

13 A It's enhanced crisis intervention training.
14 So everyone goes through the 40-hour block of CIT
15 training. And then officers that -- that choose will
16 go to an additional 40 hours of training and become
17 a -- a resource for other officers when dealing with
18 people in mental health crisis.

19 Q So going back, again, to our example of
20 a -- an officer responding to a scene, that officer's
21 presence is not deterring any behavior that they've
22 been called to. Their verbal commands is -- is not
23 working in removing the threat or whatever the
24 concern is that they were called to.

25 They -- they've deescalated by creating

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1 space and softening their tone or changing their
2 behavior to try to bring the person down. You
3 mentioned earlier that, now, you're starting to think
4 about other less-lethal or -- or more enhanced
5 options for that --

6 A Sure.

7 Q -- person.

8 A Sure. It might be a -- it might be the use
9 of a Taser if you can get within -- within range of
10 the person, depending if they have a weapon or not.
11 It could be the -- our -- our sponge rounds, the
12 40-millimeter launcher that we attempt.

13 But these -- these tools are not fool proof
14 and -- and they fail quite often. But they're
15 options that we have. And they're the best --
16 unfortunately, the best options that we have.

17 Q And in all of those contexts that presumes
18 that the person that is the subject of this is
19 stationary or at least in close proximity where you
20 can observe them in a very controlled manner.

21 But what happens if, again, that person
22 changes their behavior, changes their movement,
23 changes their direction and evolves the scene in
24 which the officer is responding to?

25 A That becomes a -- what I consider

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1 personally to be one of the most complicated,
2 difficult situations that we deal with.

3 And I've been in that type of call where
4 you're -- where someone is -- is -- has a dangerous
5 weapon and they're in the community and they're not
6 responding to calls and they're not staying
7 stationary.

8 They're moving around the neighborhoods.
9 And your concern is for everyone -- everyone's safety
10 around you, not just your -- your own personal
11 safety.

12 So you have to eventually contain that
13 person or be there, be present to intervene if they
14 become a deadly threat to another person in the
15 community. So it becomes very difficult.

16 We don't have a great -- you could use cars
17 as a barrier. People can get around cars. They can
18 climb over cars. How -- how do you contain a person
19 that's moving --

20 Q Mm-hmm.

21 A -- freely? There aren't -- there's --
22 there aren't -- there's not a great answer to this.
23 I've asked about tranquilizers, "Can we use
24 tranquilizers?"

25 I've been told, no, we can't use

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1 tranquilizers. We can't gauge the amount of
2 medication that would be needed. In a human being,
3 it would be too dangerous. There -- we would need
4 some kind of tool that would incapacitate someone
5 and -- and we don't have it. It doesn't exist.

6 Q And in -- and in that -- given your role as
7 an instructor and given your role now as -- as
8 training for the advanced academy, is that something
9 you're constantly researching and looking at --

10 A Absolutely.

11 Q -- to try to find better methods?

12 A Yeah. We -- we have someone at the
13 training division that that's their sole job, to --
14 to -- research and development of tool -- better
15 tools. And there have been a lot of -- a lot of
16 tools tested that just haven't worked out very well.

17 Q And why is that? I mean, why -- why are --
18 why are we looking for --

19 A Because --

20 Q -- more tools?

21 A -- people are very, very, very difficult to
22 control physically. There's just -- there -- there
23 just aren't any -- there's nothing on the market that
24 can actually physically control somebody at this
25 point, to physically control.

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1 Q Now, from your training and experience both
2 as an instructor and an officer, what role, if any,
3 can -- you've already mentioned mental health or
4 people involved in crisis intervention, but what
5 about methamphetamine use or a large amount of
6 methamphetamine?

7 What -- what impact, if any, can that have
8 in the behavior of the subject and -- in their
9 behavior around the community?

10 A Well, we see it quite often. It can -- it
11 can increase aggression, certainly energy. And the
12 person is agitated and angry and volatile.

13 And when we talk about trying to contain
14 someone like that, it's -- it's -- that's -- that's a
15 hard problem without physically going up and -- and
16 putting hands on them. That's how it typically ends.

17 MR. HANNON: Okay. Now -- well, let me
18 ask: Does anybody have any follow-up questions just
19 by way of background related to use of force both in
20 the less lethal or decision-making process so far?

21 Yes, sir.

22 A GRAND JUROR: My impression was that the
23 ECIT was directed towards people in mental health
24 crises. Is that same training -- can it be applied
25 toward somebody who's high on drugs?

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1 THE WITNESS: It often is, yes. And you're
2 going to try to do the same things and hear the
3 person out and -- and try to just be there and -- and
4 listen and not interject too much.

5 It's effectively what happens, but
6 sometimes they're -- people are not hearing anything
7 and they're not -- they're -- you can't really
8 communicate with them.

9 BY MR. HANNON:

10 Q And -- and I saw a question over there, but
11 real quick to follow up on that point: Does the same
12 apply with deescalation and -- and while you're
13 trying to deescalate someone who may be in a mental
14 health crisis, does the same apply for someone who
15 may be in some sort of drug-induced --

16 A Sure.

17 Q -- crisis?

18 A Absolutely.

19 A GRAND JUROR: You talked about how deadly
20 a knife or --

21 THE WITNESS: Mm-hmm.

22 A GRAND JUROR: -- a blade can be.

23 THE WITNESS: Absolutely.

24 A GRAND JUROR: Is there any effect on how
25 you treat approaching someone with a blade depending

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1 on the size of the blade?

2 THE WITNESS: No, not really. Not really.

3 I -- I've seen very small blades do terrible damage
4 to human beings. And -- and I've seen very large
5 blades do very terrible damage to human beings.

6 Two inches will kill you, two inches of a
7 blade, very -- and I don't -- I think the blade that
8 Jeremy Christian used, the man on the -- on the MAX,
9 was a very small blade. That -- that really wouldn't
10 play into our consideration. We don't train that
11 way.

12 A GRAND JUROR: Yeah. Is there ever -- is
13 there any training about trying to disarm somebody
14 with a knife?

15 THE WITNESS: No. We would never go up and
16 approach someone and -- that's -- that's one of the
17 worst entanglements you can be in. And they're very
18 hard to control. It's -- it's not realistic to try
19 to disarm someone that has a knife.

20 BY MR. HANNON:

21 Q Let's talk about it a little further
22 because in the concept of action versus reaction, are
23 there some other factors that assist in making a
24 decision, both in action and reaction, in regards to
25 time and space?

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1 A Absolutely. The -- time and space are your
2 friend. So the way we look at action versus reaction
3 is time equals -- or distance equals time equals
4 options. So the more distance we have, the more time
5 we have to utilize our options. We like barriers.
6 That's the -- that's what we're talking about now
7 more than ever.

8 If we're exposed to one another and there's
9 nothing in between us, people can close an incredible
10 amount of distance very quickly. And that doesn't
11 give you much time to react. If we put barriers in
12 between, that makes a big difference.

13 Q So going back to the question she had,
14 which I thought was a good one with regards to --
15 given that you're teaching a lot of hands on, you're
16 teaching a lot of force or joint manipulations and
17 wrestling and jujitsu --

18 A Mm-hmm.

19 Q -- to try to gain control, but not with a
20 knife. What -- with regards to officers, what do we
21 know or what do you know about the tools that they
22 have available to them and what risk does that create
23 when they get closer to a suspect, whether they're
24 armed or unarmed?

25 A The -- the -- the risk that the officer,

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1 the weapons they bring to the table?

2 Q Yes.

3 A Oh, that -- that's also a -- a big concern.
4 Our firearms -- any time we're in a physical
5 confrontation, there are weapons -- weapons involved.
6 That's the truth with police officers. Every year,
7 police officers are killed with their own -- with
8 their own gun.

9 That happens every year. So it's -- it's
10 always a concern. We have really good retention on
11 the holsters. When I say "retention," we have
12 systems in our holsters that don't allow them to come
13 out very easily. And if you don't know how to work
14 them, it's hard to get the gun out.

15 But if -- if an officer introduces a weapon
16 at the -- you know, at the wrong time and there's
17 equal access to that, it can very easily be taken
18 from them, depending on if the person is more
19 aggressive or bigger, stronger, more motivated.

20 And I say we don't -- we didn't do -- we
21 don't do knife defense. We do do training with being
22 in an entangled fight with someone with a knife, but
23 that's a -- a -- that's a -- a place we never want to
24 be. It's -- we do the training simply because we
25 might be in that fight, not because we would ever

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1 actually put ourselves in that fight.

2 Q And --

3 A GRAND JUROR: Can I -- sorry.

4 BY MR. HANNON:

5 Q It's my understanding, though, when -- when
6 in those close quarters, is one of the priorities of
7 an officer when they're in close quarters with an
8 attacker, one of their first things to do is to
9 protect their firearm and --

10 A Yes.

11 Q -- put a hand on their firearm?

12 A Depending. With our -- with the holsters
13 that we have now, the retention is so good that I
14 would hope that they were more concerned about their
15 consciousness than they are about retaining their gun
16 unless the person actually attempts to get to their
17 gun.

18 If they do attempt to get to their gun,
19 that's obviously going to be the first priority,
20 is -- is protecting that weapon. But a bigger
21 concern for me is someone taking a knock-out blow to
22 the head. That's -- that's a really big concern.

23 Q And if they're in close quarters and
24 they're trying to protect their gun or trying to
25 protect their face, again, they're reacting to

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1 somebody with a blade --

2 A Yeah. Oh --

3 Q -- and so they are --

4 A -- if the knife is there, that's a --
5 that's a whole different story.

6 Q So they're still at a disadvantage?

7 A Yeah.

8 MR. HANNON: Okay. Yes.

9 BY MR. OVERSTREET:

10 Q I wanted to ask a question regarding the
11 knife and hand-to-hand --

12 A Yes, sir.

13 Q -- fighting. I know it's taught in other
14 jurisdictions. I want to know if it's taught in
15 Oregon or specifically in Portland that if an officer
16 ends up in a hand-to-hand situation with somebody
17 with a knife, is the officer trained or at least
18 educated on the -- to plan on being cut by that
19 knife?

20 A We -- we say that in every -- every
21 training we do involving knives. If you're in a
22 fight with a knife, you're probably going to get cut.
23 And that's just a reality. That's not -- that's --
24 that's just a fact.

25 Q So an officer --

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1 A If you try to manipulate that blade in any
2 way, you're going to be cut. Likely -- a lot of the
3 times people are stabbed and they don't even know
4 that they've been stabbed. That -- that -- that's
5 very common downtown.

6 You'll go to a -- what you think is a fight
7 and one of the guys will be like, "Where'd he go?
8 Where'd he go?" and he's bleeding from the side. And
9 you say, "Hey -- hey, what's" --

10 Q What --

11 A -- going on there?" and they were stabbed
12 and they didn't know.

13 Q So that information is relayed to
14 officers --

15 A Yes.

16 Q -- when they're being trained, that in a
17 knife fight you --

18 A Yeah.

19 Q -- you will likely be cut?

20 A What we tell officers, if -- if they're in
21 a knife fight, the goal is that you're going to make
22 it to the hospital. You're going to live through
23 that.

24 It's -- the goal isn't that you're not
25 going to be cut or stabbed because the -- the

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1 likelihood is that you are going to be cut or stabbed
2 if you're in a fight over a knife.

3 BY MR. HANNON:

4 Q Going back in again just along this
5 question of thought, is that if an officer finds
6 himself in that knife fight, what risk factors does
7 that create also not only to that officer and the
8 person with the knife, but also the surrounding
9 members of the community who are not in possession of
10 tools like the officer --

11 A Sure.

12 Q -- who may be in this -- in the periphery
13 of this interaction?

14 A Obviously, someone that's attacking a
15 police officer with a knife is -- is a very dangerous
16 individual and anyone around that scene is in danger.

17 Also, if a -- if a police officer's
18 incapacitated, then that person also has access to
19 any tool that that police officer has. So maybe now
20 they're armed with a gun, so --

21 MR. HANNON: Any other questions so far as
22 far as training?

23 Yes.

24 BY MR. OVERSTREET:

25 Q I want to see if you can speak about this

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1 for a minute. You talked about the training
2 scenarios and you have this controlled environment.

3 A Mm-hmm.

4 Q Obviously, when you go into that situation
5 you know that you're walking into a training
6 scenario --

7 A Sure. Sure.

8 Q -- where you're going to encounter some
9 sort of scenario.

10 A Yes.

11 Q Could you talk a little bit about how that
12 differs from entering into an unknown scenario in
13 real life?

14 A Well, there's probably a lot more mental
15 preparation going into a scenario than -- than there
16 is going -- well, we talk a lot about complacency as
17 police officers and -- and that you never know what
18 you're going into.

19 Any situation, we could be going into the
20 most mundane call that we've been to a thousand
21 times, but this one's going to be different. You're
22 going to be in the fight of your life. And you kind
23 of have to go into every scenario like that.

24 But the reality is, as a police officer,
25 once you've been to that call a thousand times, it's

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1 really hard to keep that mindset and mentality. So
2 officers will become complacent.

3 They'll go and they'll just think, "Oh,
4 this is just a -- you know, the person down that
5 somebody doesn't want in their -- in their doorway
6 and we're going to go move them along," but then
7 they're in the fight of their life.

8 When we're talking about scenario training,
9 you pretty much know you're going into something
10 that's going to be intense and you're mentally going
11 through the checklist of how could this go, what --
12 what could possibly happen.

13 I would like officers to do that on every
14 call they went to, but I -- I can't -- I know that's
15 not the case. I've been there. I've been complacent
16 myself, so --

17 Q And so -- that's what I was going to ask,
18 about your own --

19 A Mm-hmm.

20 Q -- personal experience and not just
21 necessarily as a trainer, that having had, you know,
22 umpteen hours of training --

23 A Yeah.

24 Q -- how does that compare personally when
25 you, yourself, have been in those scenarios where

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1 you've had to utilize that training, but you didn't
2 necessarily know that that's what you were walking
3 into?

4 A In the real-life scenarios or the --

5 Q Right.

6 A Well, I'd -- I'd say that training was
7 invaluable because I had at least some frame of
8 reference in my mind for -- for those things
9 happening.

10 And if I didn't have that, then, again, I
11 could be in that -- that fight/flight/freeze mode
12 where I really didn't know how I was going to react.
13 But I have been conditioned in a certain way that I
14 was able to -- to act appropriately as a police
15 officer.

16 BY MR. HANNON:

17 Q Going to that point real quick, is we -- we
18 oftentimes see in movies some well-choreographed
19 fights --

20 A Yeah.

21 Q -- some well-choreographed shootouts, some
22 well-choreographed incidences of blade -- bladed
23 instruments. And as Mr. Overstreet just asked you
24 about the -- and you stated, is the scenario-based
25 training gave me at least a checklist to think about.

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1 A Mm-hmm.

2 Q But, unlike the movies, do officers -- are
3 they able to react as instantaneously as we see in
4 movies to these threats as they approach us?

5 A Absolutely not. That -- the movies are the
6 movies. That is absolute fiction. Anything you see
7 revolving around police actions in movies or TV for
8 the most part is just -- is just complete fiction.

9 Police officers are human beings like
10 everyone else. Some of them aren't that athletic.
11 And if we're talking about a human performance,
12 you're putting a person -- a normal person that has
13 some training, but they're not super ninjas like
14 you -- are displayed on -- you know, on the movies or
15 on television.

16 And then they're put into this situation
17 where their heartbeat goes to 200 beats per minute.
18 They have all kinds of physiological changes that
19 they've never experienced.

20 They have neurotransmitters dumping into
21 their system and shocking them in a way that they've
22 never had before. They can't close an eye because
23 their body won't let them.

24 They won't hear anything that's happening
25 around them and they're focused -- laser focused on

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1 one thing. It's very hard to perform under those
2 circumstances to a high level.

3 I mean, officers will perform, but to -- to
4 perform to this very high level we're talking, it's
5 just not realistic. It's not -- it's not realistic
6 when it comes to what the human body can do.

7 Q And is that something not only the
8 scenario-based training assists in, but really just
9 real-life practical experience?

10 A Mm-hmm.

11 Q In other words --

12 A Yes.

13 Q -- how -- how helpful can it be -- or what
14 are the distinctions between an officer who's
15 going -- been on for a year or two and gone to their
16 third or fourth incident that requires some sort of
17 decision-making process and use of force versus an
18 officer who's been around for 10, 15, 20 years who's
19 been through numerous incidences of -- of threat
20 where they have to confront issues of using use of
21 force?

22 A Yeah. Well, I would say that you -- you
23 would hope overall that an officer that has been
24 around for a while is going to be able to -- to
25 manage a scene a little bit better.

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1 But when it comes to actually a deadly
2 force encounter, most -- most officers are never
3 involved in a deadly force encounter. And that --
4 that -- that's very novel to -- to them when it does
5 occur. So it's hard to -- to think.

6 Even an officer that's been on -- maybe if
7 they've been involved in five shootings, which we
8 don't -- I don't even know that we have any officers
9 that have ever been involved in something like that
10 here -- maybe then you might start to see a higher
11 degree of inoculation or performance.

12 But most officers that are involved in
13 shootings are only involved in one and -- and then
14 maybe two in the -- in very rare cases.

15 MR. HANNON: You had a question.

16 A GRAND JUROR: It seems to me that the
17 crux of the whole -- any situation --

18 THE WITNESS: Mm-hmm.

19 A GRAND JUROR: -- cop situation, is action
20 versus reaction --

21 THE WITNESS: Mm-hmm.

22 A GRAND JUROR: -- with all the baggage you
23 explained.

24 THE WITNESS: Yeah.

25 A GRAND JUROR: I mean, that's the basis

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1 for community support or nonsupport of whatever the
2 cops do. Can you clarify that? I mean, I can
3 understand that reaction is a nanosecond too late --

4 THE WITNESS: Sure.

5 A GRAND JUROR: -- but --

6 THE WITNESS: Well, effective -- can you be
7 more specific about what -- what --

8 A GRAND JUROR: Well, so --

9 THE WITNESS: -- what's your concern
10 about --

11 A GRAND JUROR: -- so when a person calls
12 the police --

13 THE WITNESS: Mm-hmm.

14 A GRAND JUROR: -- the police, first of
15 all, the whole umbrella is --

16 THE WITNESS: Mm-hmm.

17 A GRAND JUROR: -- reaction.

18 THE WITNESS: Yeah.

19 A GRAND JUROR: So under that umbrella,
20 then you have action: Do I take this violent person
21 out or --

22 THE WITNESS: Mm-hmm.

23 A GRAND JUROR: -- do I react and see? And
24 so the individual or the group's decision at that
25 very point determines everything. Can you --

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1 THE WITNESS: Yeah.

2 A GRAND JUROR: -- focus me better --

3 THE WITNESS: Well --

4 A GRAND JUROR: -- on that?

5 THE WITNESS: -- when we're talking about
6 action versus reaction, it's not -- I'm not saying --
7 and our policy doesn't allow that just because
8 someone has a deadly weapon and is out in public,
9 that we're just going to be able to shoot them
10 because of action versus reaction.

11 There has to be an immediate threat to
12 someone of death or serious physical injury. But you
13 want to put yourself in the best possible spot you
14 can be in at that point.

15 And that's where we talk about distance and
16 having things in between you to -- to mitigate that
17 if that action happens, that you're going to have a
18 better ability to respond.

19 Because if you -- if we're in this distance
20 and I've put myself -- or not -- you know, I've been
21 forced into this for some reason, I'm in -- I'm in a
22 losing fight. That's more the -- the principle, is
23 that we don't want to be in that. We don't want to
24 be in that situation. But if somebody --

25 A GRAND JUROR: Oh.

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1 THE WITNESS: -- becomes active -- actively
2 aggressive with a -- a deadly weapon, at that point,
3 time and distance are your -- are your -- distance --

4 A GRAND JUROR: Oh, yeah.

5 THE WITNESS: -- are your friends.

6 BY MR. HANNON:

7 Q So going back, I think, to -- also to her
8 question, the concepts of action versus reaction
9 isn't one decision in a scenario.

10 In other words, are you only reacting once
11 to the behavior of somebody else or is it possible
12 that there's a series, potentially hundreds of
13 decisions that are going to be making over several
14 seconds, minutes and hours?

15 A Sure. Absolutely. And it -- and it -- it
16 really boils down to the totality: What is
17 everything that's happening in the scenario? And
18 officers are constantly evaluating that.

19 And when we see a deadly force encounter,
20 that is when the -- when that person has become an
21 immediate threat of death or serious physical injury
22 to another person.

23 Q And going back to that -- and so you
24 mentioned totality of the circumstances. When you're
25 doing scenario-based training or talking about

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1 real-life examples, is there any one factor that's
2 playing into the decision-making process of an
3 officer's or -- mind or are they trying to evaluate
4 with all the evidence that's before them in making
5 those decisions?

6 A Constantly evaluating. And it's constantly
7 changing, yeah, as it goes.

8 Q And in -- in -- in continuing with that,
9 can the -- can the situation change? In other words,
10 can -- can situations, real-life scenarios, escalate
11 when the officer didn't expect it to or can it
12 deescalate when an officer didn't --

13 A Absolutely.

14 Q -- expect it to?

15 A Yes, it happens all the time.

16 Q So --

17 A And -- and, like I said, it's very rare.
18 Officer-involved shootings are -- you know, don't
19 believe the media. They're -- we have hundreds of
20 thousands of contacts with people every year and very
21 few officer-involved shootings. It's -- it's not
22 something that happens very often.

23 Q Now -- and in going back to this concept of
24 action versus reaction, not in necessarily kind of a
25 blanket statement, but isn't it fair that that

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1 concept is really one person is making a decision and
2 the officers are trying to react to the -- that
3 decision?

4 And those decisions may not be rational.
5 They may not make sense. They may be violent.
6 They -- the violence may decrease.

7 A Sure.

8 Q But everything that they -- the officers
9 are doing is in response to --

10 A Absolutely.

11 Q -- something they're observing?

12 A Yes.

13 A GRAND JUROR: So that all goes back to
14 the training of the --

15 THE WITNESS: Yes.

16 A GRAND JUROR: -- officers making the
17 constant --

18 THE WITNESS: Sure.

19 A GRAND JUROR: Their evaluation is a
20 function of whatever --

21 THE WITNESS: Training and experience.

22 A GRAND JUROR: -- is trained --

23 THE WITNESS: Absolutely.

24 A GRAND JUROR: -- on you.

25 THE WITNESS: Mm-hmm, yeah. Well -- well,

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1 I -- officers rarely -- we give them a base training,
2 but the reality is you learn to be a police officer
3 out there being a police officer and -- and
4 interacting with the community and being involved in
5 these situations.

6 BY MR. HANNON:

7 Q Well, in -- in the decision-making process,
8 though, who ultimately has to be held accountable for
9 their independent decision making? In other words,
10 when -- when you talk about a group --

11 A Nobody. It's --

12 Q -- group -- group -- people moving in
13 groups in a dynamic situation, are the officers as a
14 blanket going to be made accountable for their group
15 decision --

16 A No, each --

17 Q -- or does each officer have to be held
18 accountable for each independent decision?

19 A Each individual decision will be evaluated
20 on every officer that -- that was involved. So your
21 actions, you will be evaluated for and no one else
22 will be responsible for, unless you did something to
23 affect their actions.

24 Q And -- and from your experiences as an
25 instructor and your knowledge with the Portland

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1 Police Bureau, in the context that we're talking
2 about here, is a -- is a criminal investigation, but
3 is -- is there more evaluation that goes on to -- to
4 the decision-making process of officers beyond what
5 is presented here in a grand jury?

6 For example, does the Trainings Division,
7 does command staff, do sergeants, lieutenants, all
8 look at these real-life scenarios --

9 A Yes.

10 Q -- and all the evidence before them and
11 evaluate themselves, "Well, maybe it didn't rise or
12 maybe it did rise to the level of a crime, but
13 separate and apart from that administratively within
14 our bureau here's who violated policy or" --

15 A Yes.

16 Q -- "here's who was in compliance with
17 policy"?

18 A So, yes. Yes. You could go through -- if
19 we're talking about, like, a -- a criminal issue, go
20 through that and be perfectly fine and then end up
21 with an Internal Affairs investigation and be found
22 out of policy and, "You could've done this better."
23 Those will happen every time, yeah. Yeah.

24 Q And not just --

25 A Not that officers are found out of policy,

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1 but those reviews will happen.

2 Q And not just the person who engaged in
3 lethal use of force?

4 A Everyone involved.

5 Q And not just the person who was involved in
6 less lethal use of force. For example, if we had a
7 scenario where all of these officers took whatever
8 active measures they deemed necessary, right or
9 wrong --

10 A Mm-hmm.

11 Q -- but let's say there was officers who did
12 not want to get involved --

13 A Yeah.

14 Q -- for a variety of reasons. You talked
15 about fight, flight or freeze.

16 A Sure, sure.

17 Q Or maybe they just did not like the idea of
18 getting themselves involved to protect the community
19 members around them. Will they be held accountable
20 for their decision-making process as well for --

21 A It's --

22 Q -- their lack of engagement?

23 A -- clearly part of our policy that they
24 should be. Have I personally seen that happen very
25 often in the Portland Police Bureau? I -- no. But

Examination of Bradley Clark

1 it -- it -- by policy, that's the way it should be,
2 yes.

3 MR. HANNON: Yes, sir.

4 A GRAND JUROR: Can we take a five-minute
5 break?

6 MR. HANNON: Absolutely.

7 A GRAND JUROR: Okay. Good.

8 MR. HANNON: We'll go off the record.

9 (Recess taken, 3:46 p.m. - 3:54 p.m.)

10 MR. HANNON: All right. We're back on the
11 record in Grand Jury No. 3, Case No. 54. We still
12 have Officer Clark testifying. And it's my
13 understanding we have a couple more follow-up
14 questions from the grand jury.

15 Go ahead.

16 A GRAND JUROR: So what happens when
17 there's more than one officer on site? Is there any
18 kind of collective training for how they behave?

19 THE WITNESS: Sure. If -- if -- if we have
20 time and the circumstances permit, we'll -- we will
21 manage everyone's role within that scene.

22 So you might have someone that's
23 designated -- if we're dealing with a lethal-force
24 situation, we'll have somebody first off designated
25 as a lethal-force cover.

Examination of Bradley Clark

1 We'll have a less-lethal option, possibly
2 either a Taser or the less-lethal launcher. We'll
3 have someone that's specifically communicating with
4 the person so that we don't have everyone trying to
5 give commands all at the same time. But this is -- I
6 say that this is optimal.

7 We -- we try to do that, but when it's a
8 dynamic situation and it's a bunch of moving parts,
9 that can -- it -- it -- sometimes it won't play out
10 that way. But we try certainly.

11 A GRAND JUROR: So --

12 THE WITNESS: And --

13 A GRAND JUROR: -- yeah. What if the
14 situation didn't permit the --

15 THE WITNESS: Mm-hmm.

16 A GRAND JUROR: -- the organizing of it --

17 THE WITNESS: Yeah.

18 A GRAND JUROR: -- and the situation was
19 moving very rapidly --

20 THE WITNESS: Mm-hmm.

21 A GRAND JUROR: -- is there -- do you train
22 for -- for individual officers to select the role
23 that they're going to -- they're going to assume?

24 THE WITNESS: I would expect that if
25 it's -- if it's evolving rapidly and someone doesn't

Examination of Bradley Clark

1 have a role, they're going to assume whatever role
2 is -- is necessary at that moment. So it can be
3 fluid if -- if we're not organized at that moment.

4 A GRAND JUROR: Uh-huh.

5 THE WITNESS: People are going to pick up
6 whatever needs to be done. And sometimes that will
7 result in multiple people giving commands, which
8 isn't optimal.

9 Or maybe multiple less lethals deployed
10 when it's a lethal situation or no -- no less lethal
11 being deployed and a lethal option being deployed,
12 just depending on what they're presented with. So
13 someone's going to pick up whatever role they deem
14 necessary at the moment.

15 A GRAND JUROR: Okay. Thanks.

16 BY MR. HANNON:

17 Q So --

18 THE WITNESS: Is that clear? I -- if -- if
19 that's -- if I'm not answering the question, I --

20 A GRAND JUROR: Well, I --

21 THE WITNESS: -- I certainly --

22 A GRAND JUROR: -- I think -- do you do
23 scenarios in -- that -- that speak to that?

24 THE WITNESS: Sure. Absolutely, yeah.

25 BY MR. HANNON:

Examination of Bradley Clark

1 Q And when -- so to follow up on that, when
2 you have those scenarios, what do you -- what do you
3 train officers to do in a rapidly dynamic situation
4 where they don't have the opportunity to gather their
5 resources, organize them and move in a concerted
6 effort?

7 A To pick up whatever -- to look and see what
8 needs to be done and pick up the role that is missing
9 or pick up what -- whatever is necessary at that
10 moment, they're going to attempt to -- to fill
11 that role.

12 Q So, hypothetically, if -- if -- in your
13 training, if it's a -- you say, "Hey, we have a
14 rapidly dynamic scenario," you know, you have your
15 persons in -- taking the roles of either civilians or
16 the subject who is creating the rapidly dynamic
17 scenario --

18 A Mm-hmm.

19 Q -- one person has their Taser and you're
20 telling the other officers, "What else is missing?"

21 A Yes.

22 Q And so, hopefully, if they're trained
23 properly, they see, "Here's what is missing. You
24 pick -- I'm -- I'm going to grab my lethal because we
25 don't have lethal cover."

Examination of Bradley Clark

1 A Yeah.

2 Q Or someone's going to grab -- someone's not
3 going to grab anything 'cause they want to be the
4 person to engage with the subject if --

5 A Sure.

6 Q -- there's no one else doing that.

7 A Yeah. And we'll have those conversations
8 at the end of scenarios. So if we -- if they were
9 prevented with -- presented with a deadly force
10 threat and everyone drew their gun at the same time
11 to -- maybe we had four officers and then time
12 permitted and no one changed roles and everyone
13 stayed lethal.

14 And maybe there would've been time for an
15 officer to change to a less lethal role, in the
16 debrief at the end, we'll -- we'll bring that up and
17 say, "Hey. Okay. At this point, we had time. We
18 were able to manage this a little bit.

19 "Could someone have holstered and gone to a
20 Taser? Could someone have holstered and been the
21 hands on or been the single communicator?" And we'll
22 have those conversations at the end of the scenario
23 in the debrief.

24 A GRAND JUROR: I don't want to -- I'm
25 good.

Examination of Bradley Clark

1 MR. HANNON: You can.

2 THE WITNESS: Are you sure? No, you can
3 ask. Please.

4 A GRAND JUROR: I don't know. Is -- I --
5 would something like -- what are they? The ballistic
6 shields that they have?

7 MR. HANNON: Mm-hmm.

8 THE WITNESS: The shields, we use, yes.

9 A GRAND JUROR: Would that be of any
10 assistance in a situation with a knife?

11 THE WITNESS: Again, they don't stop
12 blades. So they can't --

13 A GRAND JUROR: A blade could --

14 THE WITNESS: They could --

15 A GRAND JUROR: -- go through --

16 THE WITNESS: They could --

17 A GRAND JUROR: -- one of those shields?

18 THE WITNESS: Well, it can be easily
19 defeated.

20 A GRAND JUROR: Around?

21 THE WITNESS: Yeah, mm-hmm.

22 A GRAND JUROR: Okay.

23 THE WITNESS: Yeah, with a blade. So it
24 wouldn't be the -- you know, necessarily -- I
25 wouldn't say that it's out of -- you probably

Examination of Bradley Clark

1 wouldn't see one used because they're specifically
2 designed for -- for -- for bullets. So --

3 BY MR. HANNON:

4 Q But going to her point, if you did have
5 someone with a shield in a training scenario --

6 A Mm-hmm.

7 Q So, again, going back to your question --
8 rapidly evolving scenario --

9 A Yeah.

10 Q -- what's needed, what can I grab, someone
11 grabs a shield. What would you want to make sure --
12 or let's say the shield is the only thing someone
13 has. As a training officer, what would you expect or
14 want other officers to have while one officer has
15 the shield?

16 A A lethal option, a less-lethal option, a
17 communicator, a hands-on team if we have that
18 resource available, people that are designed -- or
19 designated strictly to place someone into handcuffs
20 physically with their hands if they have to.

21 Q If a person has a shield, as -- as her
22 question --

23 A Mm-hmm.

24 Q -- are they going to need lethal and
25 less-lethal cover for themselves in case the shield

Examination of Bradley Clark

1 does not work in preventing an attack or --

2 A Yes.

3 Q -- stopping a threat?

4 A If there's a lethal threat, we always want
5 someone with a -- the ability to deploy lethal force.
6 That's the primary tool that we're going to use. And
7 then from there, if we have time, we're going to
8 implement less-lethal tools because we're addressing
9 a lethal threat.

10 A GRAND JUROR: From your experience, how
11 much does a shield cover an officer or a person using
12 it?

13 THE WITNESS: The -- your -- your shins are
14 exposed when -- when you're moving it, but it would
15 cover the -- the torso and most of your leg.

16 A GRAND JUROR: Got it. So easily --

17 THE WITNESS: And you have to kind of
18 crouch behind it.

19 A GRAND JUROR: So you can easily get
20 something around the sides?

21 THE WITNESS: Yes, yes. When it comes to
22 an edged weapon, it'd be pretty easy to defeat a
23 shield. I mean, you can certainly use it.

24 And if somebody had it in their hand or
25 presented somebody with a knife, I -- I would have no

Examination of Bradley Clark

1 problem with them using the shield to defend
2 themselves with it. But it's not the optimal tool.

3 A GRAND JUROR: And how heavy is one of
4 these shields typically?

5 THE WITNESS: I don't know. Maybe
6 25 pounds. Probably -- they're not super heavy, but
7 they're not light. That's -- that's a guess. That's
8 an approximation.

9 A GRAND JUROR: Okay.

10 MR. HANNON: Again, as many questions as
11 you want. There's not one question --

12 A GRAND JUROR: I didn't apologize. I --
13 just so I think I understand --

14 THE WITNESS: Mm-hmm.

15 A GRAND JUROR: -- the Portland Police
16 training is that any bladed weapon can be considered
17 a lethal weapon?

18 THE WITNESS: Absolutely.

19 A GRAND JUROR: Okay.

20 BY MR. HANNON:

21 Q And why is that?

22 A Maybe not like a Bic razor or something
23 like that.

24 A GRAND JUROR: Sure.

25 THE WITNESS: But any -- any -- anything

Examination of Bradley Clark

1 that has a blade or an edge on it that can penetrate
2 you and maybe even an inch long, that's a deadly
3 threat. And we can go back to the -- to the MAX
4 incident to be an example as to why that's so
5 dangerous.

6 A GRAND JUROR: So, again, there's no
7 different training for somebody that has a gun versus
8 somebody --

9 THE WITNESS: Sure.

10 A GRAND JUROR: -- who's got a knife? It's
11 pretty much the same training or close?

12 THE WITNESS: Well, then -- then -- so
13 different training there would be a shield would be
14 something --

15 A GRAND JUROR: Right.

16 THE WITNESS: -- that we would want.
17 Distant -- we would need a greater amount of
18 distance, certainly. We would want to be behind hard
19 cover if we're dealing with somebody with a gun. If
20 this happens from me to him in an open space, it's
21 going to be a gun fight.

22 That's all it -- we don't have that -- any
23 of those things available to us. And -- and we're in
24 that action versus reaction (indiscernible), so the
25 training is certainly a little different.

Examination of Bradley Clark

1 A GRAND JUROR: Okay.

2 THE WITNESS: But it's not -- if you're
3 within range of that knife, that is no less dangerous
4 than a gun.

5 MR. HANNON: Anybody else?

6 A GRAND JUROR: Not right now.

7 BY MR. HANNON:

8 Q Okay. So -- I'm sorry. So, real quick,
9 you -- you had a chance to watch -- well, let me
10 actually strike that question and start first: Were
11 you part of this investigation or a responding
12 officer in this scenario?

13 A No, sir, I wasn't.

14 Q And up until a couple hours ago when you
15 were in my office, had you seen any of the video
16 surveillance or --

17 A I hadn't seen anything until we watched
18 that clip of the video.

19 Q Okay. So I'm -- I'm going to play it once
20 through and then play it again with some questions
21 for you and then if the grand jurors have questions
22 as well.

23 (**TRANSCRIBER'S NOTE:** Video recording
24 played in open court, 4:03 p.m., as follows:)

25 LANE MARTIN: Hey, (indiscernible). Guess

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1 what? (Indiscernible) my life and they're going to
2 (indiscernible), so fuck you. (Indiscernible).

3 UNIDENTIFIED OFFICER: Hold it right there.

4 LANE MARTIN: Hey, you know what,
5 (indiscernible) fucking (indiscernible).

6 UNIDENTIFIED OFFICER: (Indiscernible).

7 UNIDENTIFIED SPEAKER: I've got a body cam,
8 man. I've got a body cam. You are (indiscernible).

9 UNIDENTIFIED OFFICER: You need to stop
10 right now.

11 LANE MARTIN: (Indiscernible).

12 (Indiscernible background conversation.)

13 (**TRANSCRIBER'S NOTE:** Video recording
14 stopped, 4:04 p.m.)

15 (Pause in proceedings, 4:04 p.m. -
16 4:07 p.m.)

17 BY MR. HANNON:

18 Q So going back again to the beginning, did
19 you -- if this is our individual engaged in a
20 scenario or incident where the officers are
21 responding to --

22 A Do you just want me to talk about what I'm
23 thinking?

24 Q Yes.

25 A Yeah. So this is that nasty scenario we

Examination of Bradley Clark

1 were talking about where someone's armed in public
2 and they're mobile and they're not obeying commands
3 and how -- how do we deal with this person.

4 I -- I think -- I've been in a very similar
5 situation where a person had a pickaxe, not a -- not
6 a -- I'm not sure what he has. Is that -- I heard
7 someone say a hammer. I heard someone say a hatchet.

8 Q We'll see it in a minute, but --

9 A Yeah. But they're in -- the police
10 officers are in this -- this point where they have
11 to -- optimally, they would contain the person, but
12 how do you do that?

13 We don't have the -- we don't really have
14 the ability to do that, so they're -- they end up in
15 this weird spot of where you -- you have to follow
16 the person and just be ready to act if his aggression
17 is turned on someone.

18 Q Well, and -- and, to that point, as he
19 approaches a car with a driver inside and engaging
20 with them and if they're responding to an incident of
21 a person with a knife --

22 A Is that what --

23 Q -- would an officer --

24 A -- the call was? I -- I --

25 Q Yes.

Examination of Bradley Clark

1 A -- don't know what the call was.

2 Q If the call was regarding a person with a
3 knife --

4 A Okay.

5 Q -- this alone, would that create a risk for
6 someone in the -- in the community?

7 A Absolutely. You're right on that -- that
8 edge right there of -- of having to actually take
9 action and --

10 Q Now --

11 A -- not just be following him.

12 (TRANSCRIBER'S NOTE: Video recording
13 played in open court, 4:08 p.m., as follows:)

14 (Indiscernible audio.)

15 BY MR. HANNON:

16 Q -- as you watch their behavior --

17 A But they're also a -- a pretty good
18 distance away, so --

19 (Video recording paused, 4:08 p.m.)

20 BY MR. HANNON:

21 Q And would you -- would you describe this as
22 a form of kind of watching him, but still
23 deescalation, given the time and distance that --

24 A Exactly, yep.

25 (Video recording resumed, 4:09 p.m.)

Examination of Bradley Clark

1 LANE MARTIN: (Indiscernible) guess what?
2 I killed my wife and I've got her head in a box, so
3 fuck you. (Indiscernible) I'll fucking
4 (indiscernible).

5 UNIDENTIFIED OFFICER: Stop right there.

6 LANE MARTIN: Hey, you know what? Why the
7 fuck (indiscernible).

8 UNIDENTIFIED OFFICER: (Indiscernible).

9 LANE MARTIN: I've got a body cam, man.
10 I've got a body cam.

11 (Video recording paused, 4:09 p.m.)

12 BY MR. HANNON:

13 Q And so as you see four people following, it
14 appears one has a firearm, one has a less lethal and
15 two are observing and following. Is that consistent
16 with you describing --

17 A Sure.

18 Q -- different roles?

19 A Hopefully one person communicating, one
20 person putting out traffic over the radio so
21 everybody knows what's happening.

22 (Video recording resumed, 4:09 p.m.)

23 LANE MARTIN: You are scum (indiscernible).

24 UNIDENTIFIED OFFICER: You need to stop
25 right now.

Examination of Bradley Clark

1 LANE MARTIN: (Indiscernible.)

2 UNIDENTIFIED OFFICER: Just stop.

3 (Indiscernible background conversation.)

4 (**TRANSCRIBER'S NOTE:** Video recording
5 stopped, 4:10 p.m.)

6 BY MR. HANNON:

7 Q Do all of these cars that are present and
8 then, as we approach Burnside and 122nd, these people
9 that are present, does that create additional risk
10 factors for the officers to have to consider and
11 contemplate?

12 A Sure. That's who -- I mean, those are the
13 people that you're really out there to protect, along
14 with, you know, doing everything you can to protect
15 him. These are the people -- he's creating the issue
16 and these are the people that you would be afraid
17 that he might attack.

18 So it makes it a really tense situation
19 obviously that, okay, he's -- he's getting really
20 close to these people. He's super agitated. He's
21 got a dangerous weapon. At what point do I -- do I
22 have to act, right?

23 Q Now, is some of the behavior -- is the
24 deescalation okay at this point mainly because he
25 hasn't attacked anybody --

Examination of Bradley Clark

1 A Exactly.

2 Q -- and he's still walking?

3 A Yeah. That's -- I think that -- I put
4 myself in these shoes and I -- I think I'm doing
5 something very similar to this.

6 Maybe follow maybe -- maybe in cars, but
7 that's not to say that what they're doing isn't
8 exactly right. You have to be close enough that you
9 can react quickly, but you -- there's not enough
10 there.

11 Is this person an immediate threat of death
12 or serious physical injury? At this point, no, he's
13 not. Could you use --

14 Q Is --

15 A -- the less lethal at this point? Sure.

16 Q And if this is the --

17 A He's definitely meeting the requirement for
18 a less-lethal tool being used.

19 Q And if this is the hatchet out and about
20 with these people both on the street and in cars, is
21 that creating risk (indiscernible)?

22 A Absolutely. And -- and, you know, he
23 hasn't directed that aggression at those people yet,
24 but you're at the place where, if he decides to,
25 you're not going to be able to react in time. So an

Examination of Bradley Clark

1 argument could be made for lethal force at this
2 point. I don't think I'd be there.

3 I -- none of these officers were obviously
4 there. But there -- there certainly could be an
5 argument made for that.

6 Q Now, to give you some context to the video
7 you're about to see, we were at Burnside. We're now
8 approaching Ash in between.

9 We've heard testimony and, through the
10 course of the investigation, learned that the
11 individual had sustained two rounds fired at him and
12 likely hit him of less-lethal rounds between when you
13 saw him before and now.

14 And -- and, again, the call was regarding a
15 knife, but they saw the hatchet. And in this -- in
16 this video, the hatchet has been dropped.

17 A Okay. So the hatchet's out of his hand
18 now?

19 Q Correct.

20 A And he's been hit less lethal
21 (indiscernible). Okay.

22 Q But there's risk of a knife not accounted
23 for.

24 A Okay. And, like I said, I think that that
25 was completely appropriate, a less lethal at that

Examination of Bradley Clark

1 point, even approaching those people and -- and
2 disobeying commands.

3 Q Now, with the less lethal being employed
4 and him being injured -- or hit, I should say --

5 A Yeah.

6 Q -- and dropping the hatchet, does the
7 change in behavior of walking away from the officers
8 to running away from the officers along with the
9 potential for an unaccounted knife give you any
10 concerns?

11 A Yeah, absolutely. If --

12 Q And --

13 A -- if he had dropped the knife and the
14 hatchet, then -- then maybe you can approach and go
15 hands on.

16 Q Mm-hmm.

17 A But that unaccounted-for knife means that
18 you still have to maintain that distance. And, now,
19 he's running, so it becomes that much more of a
20 dynamic situation where you're having to try to keep
21 up with somebody that's potentially armed. Maybe
22 you're losing sight of them.

23 They're entering a -- a populated area or
24 they've been in a populated area the whole time. So,
25 again, it's just ramping up here.

Examination of Bradley Clark

1 BY MR. OVERSTREET:

2 Q Does the fact that the less-than-lethal
3 rounds did not incapacitate him --

4 A Yeah.

5 Q -- play any factor?

6 A It's not surprising. That's -- that is
7 going to be a -- a tool that effectively has
8 psychological ramifications, not physiological. It's
9 not going to incapacitate someone.

10 But someone -- sometimes people will be hit
11 with them and decide they don't want to be involved
12 in this any more and become compliant. I've seen --
13 I've seen it both ways. But certainly someone that's
14 motivated and high on methamphetamine and -- and very
15 agitated, you see -- you see the less-lethal rounds
16 fail all the time.

17 Q So from a training perspective, though, are
18 you trained that when less than lethal is not
19 effective, to re-evaluate what tools you might use?

20 A Sure. Absolutely, yeah.

21 Q Does that increase --

22 A And that does not necessarily mean that you
23 are now authorized lethal force.

24 Q Sure.

25 A But it's -- but if you're saying this

Examination of Bradley Clark

1 tool -- tool's not working, am I going to keep -- am
2 I going to keep trying it? Depending on the
3 situation, it just depends.

4 BY MR. HANNON:

5 Q And going back to the original question
6 earlier and this concept of action versus reaction
7 and constantly evolving the decision-making process,
8 are all of these factors and evolutions of the
9 scenario going in the mind of someone who's going to
10 be making a decision? In other words, they've heard
11 or know less lethal didn't work. They heard or know
12 that --

13 A Absolutely.

14 Q -- walking turned into running --

15 A Yep.

16 Q -- and a still unaccounted-for knife?

17 A Absolutely, yeah.

18 BY MR. OVERSTREET:

19 Q So then my last question before -- I know
20 MR Hannon wants to move on here.

21 MR. HANNON: It's okay.

22 BY MR. OVERSTREET:

23 Q Does the fact that the less than lethal now
24 has been used and didn't have quite the intended
25 effect, although it doesn't then just necessarily

Examination of Bradley Clark

1 authorize lethal --

2 A Yeah.

3 Q -- deadly force, does it increase the
4 likelihood that deadly force may need to be used?

5 A It -- it depends. It -- it's hard to say.

6 Q Okay.

7 A It really -- does this person become an
8 immediate threat of death or serious physical injury?
9 That's our policy standard. So if -- if that
10 happens, then -- then deadly -- but, who knows? He
11 could run around the corner and just become
12 completely compliant.

13 So you have to -- to constantly be
14 evaluating, which I'm sure these officers were doing
15 as we go through.

16 Q Yeah.

17 A So I -- what I would say is that, now that
18 that less lethal has failed, you -- you're not left
19 with many options for less lethal at that point. So,
20 hopefully, you're -- you're going to -- hopefully,
21 he's either going to tire out or -- or just decide to
22 comply at some point.

23 That's the hope for the -- for the good
24 ending, right? Obviously, we're all here, so it
25 didn't go that way. That was -- it went the other

Examination of Bradley Clark

1 direction. But you never know.

2 BY MR. HANNON:

3 Q So, now, obviously everyone has picked up
4 speed, pace --

5 A Mm-hmm.

6 Q -- and tools, such as vehicles. And,
7 again, is that basically reacting to --

8 A It's just reacting to what --

9 Q -- the change in his behavior --

10 A Exactly.

11 Q -- of accelerating his speed?

12 A That's -- yeah, that's how I see it.

13 Q So obviously you can't see an angle with
14 Mr. Martin --

15 A Sure.

16 Q -- the deceased.

17 A Mm-hmm.

18 Q But if his behavior has changed from
19 sprinting away from the officers to one where he
20 stops and confronts, is that a change or a fact --
21 risk factor now compared to where we were before --

22 A Absolutely.

23 Q -- when he's walking away and running away?

24 A Absolutely. Because --

25 Q And why is that?

Examination of Bradley Clark

1 A Well, we were -- we were managing this
2 person who has had -- hasn't specifically made an
3 aggressive or hasn't had aggressive behavior towards
4 someone yet and, now, he is.

5 He's turned around and is making that
6 aggressive -- and meeting that standard for our
7 deadly force, which is the officer reasonably
8 believes that this person is an immediate threat of
9 death or serious physical injury.

10 If someone has a bladed weapon and they
11 were advancing towards you, they are certainly an
12 immediate threat of death or serious physical injury.

13 Q And going to that point, if you have
14 information that someone may have a bladed weapon,
15 but you can't see it, as an officer, are you trained
16 that you're allowed to -- you have to wait for them
17 to walk up to you while it sits in their pocket and
18 perform an action or are you allowed to use what is
19 reasonable, the best information available to you to
20 make that decision?

21 A Yes, the -- the totality of the
22 circumstance. So if this is just some normal
23 business person on a downtown street and they walk up
24 to you with their hand in their pocket, would I say,
25 "Oh, action versus reaction. I can shoot this

Examination of Bradley Clark

1 person"? No.

2 But if this person is reported to have a
3 knife, they've run from the police, the less lethal
4 has been deployed, they are obviously high on
5 methamphetamine, you believe they have a knife and,
6 now, they're coming at you and their hand is
7 obscured, I would, given the totality, certainly
8 believe that it is reasonable to believe that this
9 person has a knife in their hand.

10 So we're go -- it's not just this. It's
11 the -- it's everything that's happened leading up to
12 this.

13 MR. HANNON: Yes.

14 A GRAND JUROR: On this film, is this
15 Officer Piombo?

16 MR. HANNON: Yes.

17 A GRAND JUROR: Is -- is that his finger,
18 so it's not --

19 THE WITNESS: Yeah.

20 A GRAND JUROR: -- in the trigger?

21 THE WITNESS: Exactly. That's how we're
22 trained. You -- you never put your finger on the
23 trigger.

24 A GRAND JUROR: That's what he said. I
25 just wanted to --

Examination of Bradley Clark

1 A GRAND JUROR: I have a question.

2 MR. HANNON: Yes.

3 A GRAND JUROR: Is simply facing police
4 officers considered confronting them or do they have
5 to be making forward movement towards them?

6 THE WITNESS: Again, that goes into the
7 totality of how far away are you, are they turned
8 around just -- just saying, "What?" and their --
9 everything about their person is showing no
10 aggression? I'd say no.

11 And most officers would say, no, that's
12 not -- that they wouldn't have met that standard of
13 immediate threat. But if -- it could easily go from
14 this to this.

15 You know, that, alone, changes everything,
16 right? Do -- do you feel that, just me being back
17 here versus me moving towards you in an aggressive
18 way.

19 BY MR. HANNON:

20 Q So is -- is it -- and I hear that, but
21 it's -- is there any isolating factor or, again, are
22 they using every factor --

23 A Everything.

24 Q -- and knowledge that's available to them?

25 A Everything, sure. Yeah. So you can't just

Examination of Bradley Clark

1 say, "Oh, well, he turned around. Now he's facing
2 them. That's the reason that we're using deadly
3 force," right? It's -- it's -- it's everything
4 that's led up to that. And the -- and every little
5 behavior that they're making at that -- at that
6 moment. What does that officer reasonably believe is
7 what it comes down to.

8 BY MR. OVERSTREET:

9 Q So, Officer, I don't believe you heard this
10 yet, but there was an earlier call that indicated
11 that maybe he did make an aggressive motion with a
12 knife towards somebody earlier.

13 A Yeah. Well, that also --

14 Q Would that then play into your --

15 A Absolutely, 100 percent. Yeah. That's
16 adding to that totality, if officers are aware of
17 that.

18 BY MR. HANNON:

19 Q But -- and going back to your training,
20 each -- this is what you're trained -- or training
21 them or saying, this is what your scenarios or
22 discussion points, but at the end of the day, each
23 individual officer is going to be accountable for
24 each individual decision that they make?

25 A Absolutely, yes.

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1 Q And you mentioned earlier that in a perfect
2 world with the time available to you, you'd set up a
3 team --

4 A Mm-hmm.

5 Q -- with various tools and options --

6 A Sure.

7 Q -- to then engage. But in the concepts
8 both of action and reaction and the training,
9 obviously you see various officers with different
10 items and tools available to them.

11 But at the end of the day when an officer's
12 confronted with a decision, the speed, length of time
13 or not and length of time available is dependent upon
14 what each individual officer perceives?

15 A Sure. Absolutely, yeah. And in a -- yeah.
16 I would love to play everything out perfectly and go
17 into a situation and everyone doing the role that
18 they were given, but -- but things constantly change.

19 And -- and maybe some people -- like here,
20 maybe you had somebody that wasn't as fast as
21 everyone else that was designated with a role and you
22 all -- and you end up with a bunch of people that
23 were not designated with roles and, now, you're
24 confronted immediately. People aren't going to know
25 specifically what -- or the plan hadn't been set

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1 because the time didn't allow.

2 Q And in that scenario, if this is an
3 apartment complex with various people or residents at
4 that area, are there risk factors beyond just the
5 risks to the officer when the person decides to stop
6 running or walking away from the officers? Is there
7 a risk to anybody in the public in that scenario?

8 A Absolutely, yeah. We've had multiple
9 situations this year of -- of people being confronted
10 and taking hostages with blades.

11 A GRAND JUROR: It looked like in the very
12 last scene that you showed that the people with --
13 armed less lethal had decided -- I don't know what
14 verbally went on, but they decided, okay. This has
15 moved into the lethal.

16 THE WITNESS: Mm-hmm.

17 A GRAND JUROR: And I don't know if that
18 guy at that point had taken a knee or if he did not.
19 But --

20 THE WITNESS: Mm-hmm.

21 A GRAND JUROR: -- both the orange-strapped
22 guys moved out of the front row.

23 MR. HANNON: Well --

24 THE WITNESS: Oh.

25 A GRAND JUROR: Both of the non --

Examination of Bradley Clark

1 THE WITNESS: I think the -- I think the
2 shooting had already happened when they --

3 A GRAND JUROR: Yeah.

4 THE WITNESS: -- moved out.

5 A GRAND JUROR: That was my
6 (indiscernible).

7 A GRAND JUROR: That was --

8 A GRAND JUROR: So that was after the shot?

9 THE WITNESS: Mm-hmm.

10 THE WITNESS: They --

11 A GRAND JUROR: Ah.

12 A GRAND JUROR: -- moved out of the way.

13 A GRAND JUROR: Well, then they would
14 (indiscernible).

15 A GRAND JUROR: I have a question about --

16 THE WITNESS: Yes, sir.

17 A GRAND JUROR: -- the less-lethal
18 training. Where are you trained to shoot a person
19 with less-lethal rounds like a 40-millimeter?

20 THE WITNESS: The waist and below to keep
21 it less lethal. We consider it would be a -- a
22 lethal use of that tool if we shot someone in the
23 head or chest with it --

24 A GRAND JUROR: Okay. So even --

25 THE WITNESS: -- would be probably

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1 (indiscernible).

2 A GRAND JUROR: -- just shooting somebody,
3 like, around the gut area to try and knock the wind
4 out, that would be considered lethal?

5 THE WITNESS: No, the gut's okay. But you
6 start going up into the -- we -- we say the belt
7 line, just to try to keep the shots lower. As long
8 as -- as you're not striking in the chest area or the
9 head area, we're not -- it's not necessarily going to
10 be considered lethal force.

11 BY MR. HANNON:

12 Q So, again, going back to the standard. As
13 while the bread basket or the stomach area might be
14 acceptable --

15 A Yeah.

16 Q -- you're training to go lower so that
17 you're not just doing the bare minimum or --

18 A Sure. Sure.

19 Q -- borderline scenarios?

20 A Mm-hmm. And even shooting with that -- but
21 even us saying we don't shoot people in the torso,
22 that's not likely to cause death or serious physical
23 injury. But, again, that goes back to us not wanting
24 to be on -- in the gray at all and have some
25 unintended consequences and being saying, "Oh, well,

Examination of Bradley Clark

1 this is -- you -- you said this was less lethal, but
2 it wasn't."

3 So that's -- it's not like a legal
4 standard. It's a standard that the Portland Police
5 Bureau imposes.

6 A GRAND JUROR: What -- what kind of an
7 effect, if you know, would it have on a person if you
8 hit them with a less-lethal round in the belly area?

9 THE WITNESS: I've seen it have absolutely
10 no effect on people, like it didn't happen. And I've
11 seen it where the person completely falls to the
12 ground, has given up completely. So that would --
13 and I -- I take that as a psychological effect as
14 opposed to a physiological effect.

15 They didn't like it. It -- it would
16 certainly hurt. I mean, it leaves a pretty good welt
17 on you when you get hit with it.

18 A GRAND JUROR: I have a question.

19 MR. HANNON: Yes.

20 A GRAND JUROR: So I know you can't speak
21 for another officer that testified, but he was the
22 one with the AR-15 (indiscernible).

23 THE WITNESS: Mm-hmm, yes.

24 A GRAND JUROR: And he said he was
25 surprised when he heard the shots --

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1 THE WITNESS: Sure.

2 A GRAND JUROR: -- and that he was ready to
3 shoot. Is that --

4 THE WITNESS: Mm-hmm.

5 A GRAND JUROR: -- normal procedure?

6 THE WITNESS: Yeah, to be surprised?

7 A GRAND JUROR: At least -- well, that he
8 was surprised that he wasn't the first one to take
9 action.

10 THE WITNESS: No.

11 A GRAND JUROR: I guess that -- no?

12 THE WITNESS: No.

13 A GRAND JUROR: That's how I --

14 THE WITNESS: As I watched the video, it
15 looked like he was behind the -- the --

16 A GRAND JUROR: Right.

17 THE WITNESS: -- line --

18 A GRAND JUROR: He was in between --

19 THE WITNESS: -- as he was advancing. So I
20 would expect that if -- if, in his mind, he's trying
21 to reach that line to -- to take a shot --

22 A GRAND JUROR: Right.

23 THE WITNESS: -- that he might be
24 surprised --

25 A GRAND JUROR: Right.

Examination of Bradley Clark

1 THE WITNESS: -- because he's -- that's not
2 what he's -- he's expecting that he's going to take
3 that shot and other --

4 A GRAND JUROR: Correct.

5 THE WITNESS: -- shots go off.

6 A GRAND JUROR: Right.

7 THE WITNESS: So that makes -- that makes a
8 lot of sense to me. I could see that being --

9 BY MR. HANNON:

10 Q Well, and does that go back, again, to a
11 rapidly evolving dynamic situation --

12 A Yep.

13 Q -- where you can't coordinate necessarily
14 with each other, that each individual officer's
15 making each independent decision?

16 A Absolutely. And it -- it speaks to how
17 focused an officer is. He -- he probably isn't even
18 really thinking about what anyone else is doing. He
19 has this goal.

20 He's going to -- to do it and then it
21 doesn't happen that way and that was what his
22 attention was on. It's surprising, so -- because his
23 focus was so intent on that action.

24 MR. HANNON: Does anyone else have any
25 questions for Officer Clark?

Examination of Matt Manus

1 A GRAND JUROR: I do not.

2 MR. HANNON: Okay. We will call the next
3 witness.

4 THE WITNESS: Thank you. Take care.

5 A GRAND JUROR: Thank you.

6 A GRAND JUROR: Thank you.

7 MR. HANNON: Please stand right there,
8 raise your right hand and we'll swear you in.

9 **MATT MANUS**

10 Was thereupon called as a witness; and, having been
11 first duly sworn, was examined and testified as follows:

12 THE WITNESS: Officer Matt Manus; M-a-t-t,
13 M-a-n-u-s, police officer with the City of Portland.

14 MR. HANNON: Thank you.

15 **EXAMINATION**

16 BY MR. HANNON:

17 Q Officer Manus, how are you employed with
18 the City of Portland?

19 A I'm a police officer and I work at the
20 Training Division.

21 Q And how long have you worked with the
22 Training Division?

23 A Full time, I came over in -- let's see --
24 June of 2017, I believe. And I became the lead
25 firearms instructor in May of 2018.

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1 Q And prior to becoming the lead firearms
2 instructor, what was your training and experience?

3 A I started with the 20-week state academy
4 through the Oregon Police Corps. I had a 14-week
5 advanced academy. I am a less-lethal operator. I
6 became a firearms instructor in 2012.

7 I have been so for the last seven years,
8 working at -- through -- at the precinct level. And
9 I've -- since I've been at the Training Division,
10 I've now become the lead firearms instructor.

11 Q And I'm sorry, when did that occur again?

12 A Ah --

13 Q When you became lead firearms instructor.

14 A May of 2018.

15 Q And can you explain to the ladies and
16 gentlemen of the grand jury some of the ongoing
17 training that you do and participate in to try to
18 maintain that level of expertise?

19 A Well, me, myself, I seek training outside
20 of our -- our department. I've been through
21 trainings in Utah. I've gone to International
22 Association of Firearms Instructors, so I went to
23 training there earlier this year.

24 And I've been doing instructional --
25 instructor development courses trying to see how we

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1 can improve myself as an instructor and then bring
2 the best training to our officers to have them
3 maintain proficiency. We also have three
4 qualifications per year.

5 And we've had additional training after
6 those qualifications to try to help our officers get
7 more experience and improve their accuracy.

8 Q And both with regards to training officers
9 in general as well as training anybody else in the
10 basic principles of the use of a firearm or
11 possession of a firearm, are there any fundamental
12 principles or concepts that are universally known
13 when talking about firearms?

14 A There's cardinal -- four cardinal safety
15 rules that most any civilian range you go to,
16 military, law enforcement will have on a range. And
17 those rules are all -- treat all guns as they're
18 always loaded, right? Even if you may know that may
19 be unloaded, treat it as it is.

20 Never point the muzzle of that firearm at
21 anyone, at anything you're not willing to destroy,
22 including yourself. Keep your finger off the -- off
23 the trigger.

24 Keep your finger off the trigger and
25 outside the trigger guard until you're up on target

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1 and intend to fire. And then be aware of your
2 backstop -- your target, your backstop and what lies
3 beyond.

4 And this is something we talk about every
5 time before we do any live-fire training. Any time
6 people come onto the range, we'll have a safety
7 briefing. I'll talk about that. And that's in the
8 civilian world. It's in the law enforcement world
9 and the military world.

10 Q And in addition to those kind of concepts,
11 at least as it relates to law enforcement and
12 certainly the Portland Police Bureau training, is
13 there any concepts or responsibility bestowed on
14 people who possess firearms with regards to the shots
15 that they fire?

16 A We're -- we're accountable for every action
17 we do with force, particularly with our -- if we have
18 to use deadly force or apply deadly force, we are --
19 should be accountable for every round that we fire.
20 It has to be a thoughtful and deliberate action. And
21 hopefully, those rounds will strike their intended
22 target.

23 Q And is -- is that principle and
24 accountability with each round, that kind of harkens
25 back also to know your backstop?

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1 A Yes, absolutely.

2 Q And -- and expand upon that further.

3 What -- what does that mean to know your backstop and
4 be accountable for the round you fire?

5 A So when we train, we have a safe backstop.
6 We train on a range. You have something we know is
7 safe to shoot in. You may not have that ability
8 to -- if you have a deadly force right in front of
9 you, you may not be able to take a shot based on what
10 your backstop is. You may have civilians down the
11 street.

12 We've had shootings that have occurred --
13 not officer-involved shootings -- at 14th and
14 Burnside and had rounds go all the way down to 6th
15 and Burnside. It -- it's just not what's in front of
16 you. Those rounds can go a long distance.

17 And it's important that officers have that
18 in mind. When they deploy their firearms, they have
19 an understanding that it's not just what's in front
20 of you, but what's also beyond that.

21 Q So in addition to those kind of concepts,
22 is there -- does the way in which officers are
23 trained to use a firearm and the scenarios in which
24 they are used -- trained to use a firearm, are those
25 static or are they evolving due to ongoing research

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1 and experience?

2 A Well, the thing with training with live
3 firearms, we have a static range. We cannot do
4 interactions with live firearms, obviously, 'cause
5 the -- you know, they have a purpose and -- and
6 that'd be dangerous to -- to do that.

7 So when we train on a range we have static
8 targets, targets that, you know, for the most part
9 are not moving. And we're working on stamps and
10 grip, gun presentation, trigger press, all these
11 fundamentals to help you become more accurate, should
12 you need to use it.

13 But live fire is really difficult to train
14 with targets that are responding to us other than
15 maybe just flipping and turning. We have the ability
16 to, on a patrol procedure side of it, use training
17 force on force or have paint rounds that people can
18 shoot that's much safer. You get a better idea of
19 how those interactions are going to be.

20 Q And have you, as you -- both in your role
21 as a precinct or satellite instructor as well as now
22 lead instructor, done your own personal research both
23 through FBI statistics and national trends in trying
24 to determine both the most accurate way to fire a
25 firearm as well as the safest way to fire a firearm

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1 in these scenarios?

2 A Yes. So when I became the lead firearms
3 instructor, one of the things I looked at was where
4 officers, for the most, encounter gun fights, right,
5 where they have -- and where officers -- and, like,
6 the distance and where officers are most likely to be
7 killed.

8 When you look back 30 years and look at the
9 FBI stats, pretty consistently, officers killed in
10 the line of duty is within zero to 21 feet roughly,
11 zero to seven yards.

12 And, you know, I just looked at the stats
13 from 2009 to 2018. Of the 471 officers that were
14 killed by firearms, 73 percent of those were killed
15 within -- within that gap, that reactionary gap, that
16 21 feet.

17 So when I was looking at how best we can
18 mitigate that, how best we can keep our officers safe
19 and increase our accuracy and slow that down, we're
20 trying to find different ways where we can improve
21 that accuracy when we have the least amount of time
22 to make some -- sometimes make those decisions and
23 make sure those rounds hit their intended target.

24 And that we -- we stop the threat, but,
25 more importantly, we change behavior based on -- on

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1 the suspect or our target that we're shooting at.

2 Q And -- and how has that concept -- and
3 we'll explain to that in practical terms -- but how
4 is that concept different than maybe what existed
5 before, really breaking down the analysis of officers
6 involved or being killed in -- in closer ranges
7 versus longer ranges?

8 A It's very difficult for a human to focus on
9 two things at varied distances with total focus. So
10 when you have something coming at you very quickly
11 it's kind of -- you know, everyone can follow with
12 their finger. They can point at, like, a moving
13 target or they can point at something really
14 pretty -- pretty easily.

15 But to be able to come up and focus on that
16 and, you know, if you use your finger to focus on the
17 end to try to get that perfect shot, we, you know,
18 previously have done a lot of shoot two rounds,
19 look -- you know, target-type shooting.

20 But that immediacy to stop that threat
21 quickly is more get that gun out, get it on target,
22 almost as if you're pointing to it if it's advancing
23 and get rounds off quickly and accurately and
24 efficiently.

25 Q Versus, say, something from a distance

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1 where you're doing what?

2 A At a distance, what we tell our folks when
3 you're beyond that, where the target will dictate
4 really what kind of focus you need to have,
5 front-side -- crystal-clear, front-side focus where
6 we have everything lined up and a smooth trigger
7 press where accuracy is the key, we call that -- we
8 have that outside.

9 We have the time to be able to do that.

10 And I may be able to have a suspect right in front of
11 me that allows me to take that precise shot, but in
12 most times, most encounters, you know, they're not
13 going to be able to have that time if it's rapidly
14 evolving, advancing upon them.

15 So with distance, we have more time. We
16 have that ability to take that precise end shot
17 hopefully from a -- a safe place behind cover. But
18 when we have these close attacks, it's extremely
19 difficult to be able to get that accurate shot with a
20 target that's potentially moving, has a weapon, may
21 be shooting at you.

22 So we have to try to mitigate that. So at
23 distance, it's -- it's actually better for us to
24 maybe make some of those decisions and make sure that
25 we have that good, accurate shot, a well-placed shot.

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1 But when that decision is made to use
2 deadly force up close where the -- in that range,
3 particularly with a person that's actively trying to
4 harm us or a third party, it's very difficult to be
5 able to make that transition to get that accurate
6 shot 'cause we need to stop that much faster.

7 Q And so you mentioned that earlier of trying
8 to change the behavior. Is there -- is there a
9 specific number of shots fired --

10 A No.

11 Q -- to create that outcome where the person
12 stops what they're doing?

13 A No. There is not a specific number of
14 rounds fired. When the officer makes that decision
15 to use deadly force, they -- once -- once they've
16 made that decision, yes, they're accountable for the
17 rounds. It's their duty to watch that threat.

18 Ultimately, no officer I -- that I can
19 think of would want to use force, right? It's a --
20 it's a -- the decision there has to be deadly force
21 is a decision that's made, but when it is, if we --
22 if one round would do it, if we had that magic
23 bullet, everyone would be satisfied if we could
24 change that behavior, get them to stop what they're
25 doing.

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1 But it may take six. It may take ten. It
2 could even take more based on the situation. A
3 motivated suspect can fight through a lot if they're
4 still intent. And they can move distance once
5 they've been shot in vital areas.

6 Q And going back to your accuracy and trying
7 to be accountable for your backstop and make sure you
8 hit your target to change the behavior, is there any
9 difference in the dynamics of officers being trained
10 by you in a controlled setting versus the dynamics of
11 an officer confronted with a threat where they have
12 to use lethal force with someone coming at them?

13 A Right. So when I run my -- my ranges --
14 right? -- we have static targets. You know, we'd be
15 three yards, five yards, seven yards away. They're
16 not moving. We can really focus on good stance, good
17 grip, trigger press, all those things quickly to get
18 accurate hands-on target.

19 But that's static. That is -- the
20 adrenaline we -- the dump that they're going to have,
21 the officers having to make these decisions, they're
22 scared, right? They're trying to stop this threat.

23 Well, in real life that threat's actually
24 moving, advancing, making, you know, furtive
25 movements, whether they're -- they're shooting at

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1 you. So in all reality, you're not going to have the
2 perfect -- everything perfect, right?

3 You're not going to maybe have the perfect
4 stance, grip like we train on the range in real life
5 when you have these threats. We -- we try to train
6 everything there so we can have the best chance at
7 having accurate shots and stopping that threat as
8 quick as possible, but on the range we don't have
9 that ability to train with moving targets.

10 Does that answer --

11 Q It does. But -- but at the same time, I
12 guess what I'm asking, though, is -- is with this --
13 are there more stressors and -- and tension involved
14 for a person who faces a situation out in the field
15 where they have to use lethal force --

16 A Yes.

17 Q -- versus the -- whatever tensions or
18 stressors may exist for having to qualify as a
19 marksman for in-service training?

20 A Yes.

21 Q And tell me about that.

22 A Well, generally, with our training we have
23 our set protocols. We -- we're safe. We know that
24 we're -- you know, what we're doing. We have a good
25 idea beforehand what the training's going to be, not

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1 having anything come back to them.

2 One of the things we do to induce stress,
3 right, is we may -- this last year I had a training
4 where we shot six rounds in four seconds from just
5 various distances.

6 Putting somebody on a timer and they have
7 the -- have to think about these things generates a
8 little bit of stress to have them get us as close as
9 we can to try to have that stressor be in -- in
10 real life.

11 So we did a drill we -- where we did that
12 and tried to have officers shoot as accurately -- as
13 quickly and as accurately as they could in a short
14 amount of time. And as, you know, an agency our size
15 trying to get people through, we had people shoot
16 extremely well under that stress.

17 But it's also on a static range where we
18 don't have these other -- these other factors.
19 Things that affect accuracy, obviously, is, you know,
20 the suspect's movements, how quickly they're moving.
21 They're coming at you. You know, they may -- again,
22 may be trying to harm you.

23 And so there's a lot of other things that
24 affect accuracy. And you -- officers may be moving
25 at the time. The suspect's going to be moving.

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1 There's -- there's an awful lot of things that are in
2 play with accuracy.

3 Translating from the inside of the range to
4 a real-world environment when they have many things
5 to think of, backstop included, other people around
6 them, their environment, there's a lot of -- a lot of
7 factors that go into the -- that decision making
8 outside of the range.

9 Q So given that -- given that concept, one of
10 the stressors you included was, "Okay. I want you to
11 fire six rounds in this period of time" --

12 A Yes.

13 Q -- or maybe you give them four rounds or
14 eight rounds, but is there a set of amount of rounds,
15 given that in a real-world scenario, that is protocol
16 or standard for an officer to try to change the
17 behavior?

18 A No, there is not.

19 Q And -- and given that, as you acknowledge
20 that there's going to be stressors or challenges at
21 play when someone's coming at you in a real-life
22 scenario, from your training, your experience and
23 your research, what impact, if any, can that have on
24 the processes in place by the person firing their gun
25 in knowing or being aware of how many shots they're

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1 actually firing?

2 A Force science has done some -- some
3 research. And, generally, officers can remember one
4 to three, one to four rounds. They can know -- yep,
5 I know how much I fired. But after that they have a
6 harder time knowing how many rounds they fired. But,
7 you know, oftentimes these things can go pretty far.

8 People shoot many rounds or they may not
9 need to shoot as many. It's just going to depend on
10 what the actions of that -- that threat is at. So
11 they may shoot more. They may -- but they may not
12 remember how many they fired as well.

13 Q And what -- and -- and so before where
14 maybe controlled shootings or at least with more
15 distance trying to control your shots, to a
16 closer-range scenario or -- or distance being
17 shortened, what -- what are they looking for in this
18 changed behavior to stop firing? Like, so they start
19 firing when the threat is there. What are they
20 looking for to stop firing?

21 A Basically, that that threat has stopped
22 doing that -- whatever that action was that prompted
23 them that they needed to apply deadly force and shoot
24 has stopped and is no longer, you know, a threat,
25 whether it's they stopped, dropped their weapon, give

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1 up, whatever that -- that case may be.

2 But if it's still an active threat, it's --
3 in that close distance, as opposed to something
4 further away, we need to make sure that that threat
5 is stopped as -- as quick as --

6 Q And where are you --

7 A -- possible.

8 Q -- where are you training officers to
9 target an individual that they feel they have to use
10 lethal force?

11 A Center mass, right? It's the largest part
12 of the body. It increases our ability to get hits.
13 You know, we can't target limbs. We can't target
14 hands, weapons in hands. If you think of a target
15 that is moving, right, arms flailing around, you're
16 not going to be able to get hits.

17 But this is the largest part of the body
18 where we can focus on that and it moves as one unit,
19 essentially. And so that's where we target, is
20 center mass.

21 Q So when we see incidences in movies where
22 officers deter behavior by shooting somebody in the
23 foot or marksman in movies shoot a gun out of a hand
24 or it takes one or two shots of a -- of a firearm
25 that blows the person back and knocks them on the

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1 ground, are any of those kind of things that we see
2 on TV consistent with your experience and what you've
3 seen both in real-life situations and research
4 reactions to firearms or possibilities that an
5 officer can engage in?

6 A No. I -- I don't find that realistic at
7 all. And that's -- much like the CSIs and some of
8 the other things, TV is not done us any help as in --
9 you know, as a profession.

10 Maybe one shot could do that in some cases.
11 It could change that behavior and it'd be enough.
12 But TV and what people see is not really consistent.

13 Q And from your experience, have you ever
14 seen video scenarios, incidences caught on TV,
15 incidences in other jurisdictions where an officer
16 has fired multiple shots and it either did not deter
17 the behavior or it did not have the stopping power to
18 prevent the person from moving either forward or
19 retreating and moving in a different direction?

20 A Yes. There is actually one here in Oregon
21 on I-84 where an -- a state trooper, I believe, or a
22 county deputy stopped a suspect. That suspect got
23 out, got in a gun fight with that officer, returned
24 fire. The suspect had a malfunction and got in his
25 car and drove several miles down I-84 where,

Examination of Matt Manus

1 ultimately, he crashed and expired, but he had been
2 shot in the heart.

3 And, you know, it was -- he was motivated.
4 And he -- had he been able to -- his gun not
5 malfunctioned and continued shooting, you know, he
6 probably would've continued going on at that point.

7 But he was able to get in the car with the
8 children that he had and drove down the road for --
9 for quite some distance. And there's other
10 incidences of, you know, videos, body cam footage,
11 that -- that's been caught where people continue.

12 There was one earlier this year, a person
13 with a knife that was shot multiple times, got up,
14 advanced on the officer and the officer actually
15 holstered his weapon and was on the ground fighting
16 this guy and this guy was trying to take his gun from
17 him. And the officer was trying to -- to keep it.

18 And another officer had to use deadly force
19 on this guy after he had already been shot. So
20 it's -- it's very possible, if you have a motivated
21 person, they can do an awful lot with adrenaline
22 and -- and they may have drugs on board. They may
23 not. It just -- it really depends.

24 The human body has an ability to survive
25 gunshots and fight through and -- and particularly in

Examination of Matt Manus

1 a close-quarters environment.

2 Q So while you can't be in the mind of the
3 particular individual in this case --

4 A Right.

5 Q Well, let me ask you, actually, one more
6 question before I ask that. Just because they
7 qualify in the advanced academy and -- and ongoing
8 trainings, does that mean officers are going to make
9 every shot that they take?

10 A No.

11 Q Is -- is that a factor at all in making
12 sure that you -- the officers are observing the
13 behavior and making sure the behavior changes before
14 they stop firing? In other words, if -- if they fire
15 multiple shots, not all of them are necessarily going
16 to deter the behavior?

17 A Right. That -- that's true. One of the
18 things that we're talking about and -- and we're
19 training is quickly, particularly in close-quarter
20 encounters, there is a possibility we may miss,
21 right?

22 And we want to try to get those officers
23 shooting, getting the best shots possible in that
24 short amount of time and recognizing that. And it's
25 solely based on really what they see the subject

Examination of Matt Manus

1 doing.

2 If they shot and they miss and it was
3 enough for the person to stop and give up, okay, that
4 changed behavior. And for us, that's -- that's --
5 that's a win. But they have to watch the suspect.
6 They can't just say, "Well, I shot four times. I'm
7 going to take to second and see what -- what's going
8 to happen."

9 They need to watch -- watch that threat,
10 what is it doing, is it still a threat, particularly
11 if it's a, you know, third-party defense, you know,
12 maybe not directly on them, but in defense of another
13 person.

14 That's really hard to -- to tell, but they
15 really need to wait until they -- it stops, so
16 anything significant happens that -- that changes.

17 Q And so while you're not necessarily in the
18 mind of the person in this particular case and each
19 one's -- each person's responsible for their own
20 decision making, when you -- if you heard that
21 11 shots are fired in a lethal situation, is that a
22 number that seems unusual to you or out of line of
23 protocol or policy or procedure from your training
24 and experience and what you're telling people to do
25 in close quarters?

Examination of Matt Manus

1 A No, it is not. And not being there, not
2 witnessing that, it's based upon what that officer
3 saw and what he -- his decision making was in that.
4 But it may -- it may take -- maybe he missed the
5 first four or five rounds or she missed the first
6 four. It -- we don't know.

7 You know, I can't make a determination
8 based on that. But I have to trust that their
9 training and their decision making when they decide
10 to stop firing is when that threat is no longer
11 active.

12 Q And they, themselves, are responsible for
13 that decision-making --

14 A Yes, they are.

15 Q -- process?

16 A No one else is. Yes, they are.

17 BY MR. OVERSTREET:

18 Q You talked a little bit about your -- the
19 training and not really necessarily training with
20 moving targets?

21 A Yes.

22 Q Could you describe a little bit about how
23 that further complicates things if you have somebody
24 who is agitate and moving around a lot and the
25 decision to finally shoot, does -- does the amount of

Examination of Matt Manus

1 the shots that you fire possibly change because of
2 the movement?

3 A It could. And, you know, with the -- the
4 rate of fire, I guess, it may change as -- as well if
5 they -- if that is -- you know, if that suspect is
6 moving, they may have to -- if they have that time to
7 take an extra second to get that shot when they need
8 to when -- when that subject is moving, they --
9 that's may -- be what they have to do.

10 We do a lot of -- one of the phrases, "See
11 what you need to see to get an accurate head-on
12 target." Maybe they realize that it's not working.
13 They maybe take a little second, you know, a little
14 bit better sight picture within that short gap. But
15 a moving target is much more difficult under stress
16 to get that accurate hit.

17 Q I don't know if you've looked at any
18 research regarding this or just from your own
19 experience or training, but is there any standard
20 time from the time somebody's shot that there's a
21 visible reaction from them?

22 A No, nothing that I'm aware of. Again, it
23 depends on what their -- they could be wearing body
24 armor. They could have -- it could not hit a vital
25 area. They -- they could be hit in the arm and it

Examination of Matt Manus

1 has zero effect.

2 There's -- there's no research that I'm
3 aware of that has any bearing on how fast a threat
4 may stop a man when they've been shot or where
5 they've been shot.

6 Q So when an officer is actively shooting and
7 they're looking for that change in demeanor from an
8 individual, there's no set standard for when they
9 might see that?

10 A No.

11 Q After one, two, three, 11 shots?

12 A No, there's not.

13 MR. OVERSTREET: Thank you.

14 BY MR. HANNON:

15 Q Going back to knowing your backstop and the
16 issue of center mass and moving targets, is that
17 another reason why you're aiming for center mass,
18 especially on moving targets, because if they're
19 moving and you're aware of your backstop, but you
20 want to make sure that you hit your target so that if
21 the backstop changes or something changes, you're
22 still trying to hit your target --

23 A Yes.

24 Q -- as opposed to being mindful of things
25 behind your target?

Examination of Matt Manus

1 A Yes. That's the largest mass part of -- of
2 the body. That increases our ability to hit that
3 target and hopefully stop -- change that behavior or
4 stop what they're doing.

5 MR. HANNON: Any grand jurors have any
6 questions for Officer Manus?

7 Yes, sir.

8 A GRAND JUROR: Yeah. If you have a
9 situation where there's no hard cover and you have a
10 handgun, what would be the preferred stance, firing
11 stance?

12 THE WITNESS: Well, in a -- in a perfect
13 world, we want to have as stable platform as we can
14 at all times.

15 A GRAND JUROR: It's not there, correct?

16 THE WITNESS: It's -- it's not there. And,
17 really, we can create a stable platform without
18 having cover. And a lot of officer-involved
19 shootings are not from behind cover.

20 Some of the things the body may, you know,
21 naturally do when they're startled, have that
22 response, is they're going to lower their center
23 of -- of gravity, right?

24 They can square up on that target, but
25 really it's about learning how to proper grip and

Examination of Matt Manus

1 stance and manage recoil on the gun and be as
2 accurate as possible at all times. So, oftentimes,
3 when the officers do get involved in -- in shootings
4 they don't have everything perfect.

5 And though we train for it and we try to
6 train and instill that, a lot of times they are in
7 fear for their lives. They have to make these
8 decisions and they are potentially moving themselves
9 or they're -- you know, what -- we hope for the best.
10 We hope for the most stable platform.

11 That all helps with -- with accuracy. But
12 it -- it's -- it's not perfect. If it was perfect,
13 they wouldn't be involved in a -- in a shooting
14 anyway.

15 A GRAND JUROR: Well, say -- say you have a
16 couple of seconds to set up --

17 THE WITNESS: Mm-hmm.

18 A GRAND JUROR: -- what stance would you
19 assume if you had a choice?

20 THE WITNESS: The most stable platform we
21 could get. So, I mean, it -- it depends. You know,
22 we could be at a -- a kneeling or in the prone
23 position that's really stable, but the situation
24 will -- will dictate what you need to have.

25 But, you know, a seated position is

Examination of Matt Manus

1 actually good. You can rest your elbow on your hand
2 and get a real stable platform. You know, it depends
3 on distance, what we have.

4 If the target would allow for that, for you
5 to have a couple seconds to get a -- a good stable
6 platform to shoot, that'd be ideal. I mean, that
7 would mean some decision making's being made there
8 that they recognize they may have that.

9 But if it's a -- all of a sudden, you
10 decide that you are going to become a deadly force
11 threat to me from where I'm at, I'm not going to be
12 able to have that time if you're advancing on me.
13 Does that make -- does that make sense?

14 A GRAND JUROR: You actually answered my
15 questions.

16 THE WITNESS: Okay. All right.

17 BY MR. OVERSTREET:

18 Q And to ask -- just kind of piggyback on
19 that a little bit, are officers trained during
20 firearms training to shoot from the standing,
21 kneeling and prone positions?

22 A Yes, that's done in the advanced academy.
23 We spend, actually, a -- a deal of time on that. We
24 always want to have the best -- the most stable
25 platform we -- we can have when -- but we don't have

Examination of Matt Manus

1 that luxury all -- all the time. Yes, they are
2 trained on that.

3 Q Are they also trained from the standing
4 position, if available, to rest or press their arm up
5 against a solid object to -- to stabilize --

6 A Yes.

7 Q -- their shooting hand?

8 A Yes. It's more --

9 Q (Indiscernible.)

10 A -- it's mostly our -- our support. Yeah.
11 We want to have as much support as -- as possible
12 that we can.

13 MR. HANNON: Any other questions?

14 May this witness be excused?

15 A GRAND JUROR: Yes.

16 MR. HANNON: Okay. Thank you.

17 A GRAND JUROR: Thank you.

18 THE WITNESS: Thank you very much.

19 MR. HANNON: I'm going to take a quick
20 break.

21 * * *

22 (Conclusion of Grand Jury Proceedings,
23 Volume 2, 10-10-19 at 4:55 p.m.)

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REPORTER'S CERTIFICATE

I certify, by signing below, that the foregoing is a correct transcript, of the audio record in the above-entitled cause, as recorded on CD and transcribed to the best of my ability and in accordance to the quality of the audio CD.



KATIE BRADFORD, CSR 90-0148
Court Reporter
(503) 267-5112

1 IN THE CIRCUIT COURT OF THE STATE OF OREGON
2 FOR THE COUNTY OF MULTNOMAH

3
4
5
6 **GRAND JURY No. 3 PROCEEDINGS**

7 **Case No. 54**

8 Conducted by:

9 Dave Hannon, Deputy District Attorney

10 Shawn Overstreet, Deputy District Attorney

11
12 - - -

13 October 14, 2019

14 - - -

15 DA Case No. 2407606

16 Portland Police Bureau Case No. 19-258996

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22 Katie Bradford, CSR 90-0148
 Court Reporter
23 Portland, Oregon
 (503) 267-5112

24
25 Proceedings recorded on digital audio recording;
 transcript provided by Certified Shorthand Reporter.

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1 Re: Officer Gary Rick Doran, OIS
2 Date of Incident: 7-30-19
3 Deceased: Lane Christopher Martin
4 Portland Police Bureau Case No. 19-258996
5 DA Case No. 2407606
6 Grand Jury No. 3, Case No. 54

7 * * *

8
9 (Volume 3, Monday, October 14, 2019, 10:16 a.m.)

10 P R O C E E D I N G S

11 (Whereupon, the following proceedings were
12 held in Grand Jury No. 3:)

13 MR. HANNON: All right. Good morning. It
14 is October 14th, 2018 [sic]. We are back on the
15 record in DA Case No. 2407606, Portland Police Bureau
16 Case No. -- Investigation 19-258996, Grand Jury
17 No. 3.

18 Am I right, this is Case No. 54?

19 A GRAND JUROR: Mm-hmm.

20 MULTIPLE GRAND JURORS: Yes.

21 MR. HANNON: Great. And we are resuming
22 with testimony. And we'll call back Officer --
23 Detective, excuse me, Billy Winters.

24 All right. You're still under oath as this
25 is still the same proceeding.

Examination of William Winters

1 **WILLIAM WINTERS**

2 Was thereupon recalled as a witness; and, having been
3 previously sworn, was examined and testified as follows:

4 **EXAMINATION**

5 BY MR. HANNON:

6 Q Detective Winters, a couple of follow-up
7 questions we've had after some of the testimony has
8 been gathered and deliberated on. First, in your --
9 you -- what kind of training do you have in regards
10 to use of force as well as SERT training?

11 A So use of force, the -- going to the basic
12 academy, also through DPSST. So use of force on
13 that, that's what is taught at the state level.

14 And then the Portland Police Bureau has the
15 advanced academy, which is our own level -- our own
16 policies and procedures of use of force which we
17 follow. And then we get updated training yearly
18 through our in-service training. Then through the
19 SERT training --

20 Q And just real quick -- and -- and that was
21 my fault. SERT training, what is -- what is SERT?

22 A That's the -- our SWAT team -- the
23 equivalent of our SWAT team, it's a Special Emergency
24 Reaction Team. I am a member of that as an intel
25 gathering person, so they also have a full -- they

Examination of William Winters

1 follow the same policies and procedures as anybody in
2 the Police Bureau for use of force.

3 Q And from your training, is the use of force
4 training with the Portland -- Portland Police Bureau
5 a little more conservative or restrictive than
6 statewide training?

7 A Yes.

8 Q So, again, if -- you could potentially be
9 well within your right under State law or State
10 training, but maybe run afoul of Portland Police
11 Bureau training?

12 A That is correct.

13 Q Or procedures and protocol as well?

14 A That is correct.

15 Q Now, with that training in mind and having
16 been involved in other types of these investigations,
17 was there anything you observed personally as an
18 investigator, based on your training and experience,
19 anything that you observed in the video of the
20 interactions with Mr. Martin on Northeast and
21 Southeast 122nd and the officers that, from your
22 opinion, was inconsistent with the trainings and
23 practices that have been given by the Portland Police
24 Bureau or the State Training Division to the officers
25 or detectives?

Examination of William Winters

1 A No.

2 Q And when you transition that to the video
3 that captures Mr. Martin running from Southeast 122nd
4 heading westbound on Ash and the officers pursuing,
5 coupled with the other video that captures the
6 corridor of those apartments on Ash, was there
7 anything from your training and experience in
8 relation to this type of case, not, obviously, with
9 the Training Division, expertise that they have, but
10 is there anything that you found the officers to be
11 inconsistent or out of compliance with the training
12 as you understand them?

13 A No.

14 Q Now, you've reviewed the interviews with
15 the officers who were at the scene both on Northeast
16 and Southeast 122nd as well as the officers who were
17 closer on scene to Mr. Martin at the apartments on
18 Ash; is that right?

19 A That is correct.

20 Q Now, is it fair to say that one of the
21 larger inconsistencies in the interviews and likely
22 what grand jury did hear in testimony regarding
23 Officer Bianca possibly seeing a knife, was there any
24 other witnesses or -- for -- evidence that you were
25 able to find in any of the interviews of Mr. Martin

Examination of William Winters

1 displaying a knife such that the other witnesses at
2 the Ash apartments could see?

3 A No.

4 Q Based on your training as an investigator,
5 when you have various witnesses that are interviewed
6 from their perspective, their experience, their
7 training and under stress, was there anything
8 concerning to you about the fact that there was an
9 inconsistency from Officer Bianca versus the other
10 officers who were on scene?

11 A No. Because based off of that, is
12 everybody's perception is different and different
13 angles are different. People were seeing -- like we
14 were saying early on at the very beginning when I
15 testified, everybody's perception is different.
16 Everybody reacts different. Everybody remembers
17 things different and sees different things.

18 And adrenaline does totally different
19 things for everybody. And some people blank out.
20 Some people exaggerate or -- not exaggerate, I would
21 say, is they -- that's what they focus on, that one
22 thing and that one thing only, so that sticks in
23 their mind.

24 Other people have a clear and concise and
25 are able to deal with adrenaline differently where

Examination of William Winters

1 they're able to remember everything. And some people
2 just completely blank out.

3 Q And, for example, taking the -- do you
4 factor in also a person's experience under the --
5 under certain type of events as to their value or
6 ability to recollect in -- an incident like this one?

7 A Yes, training --

8 Q So --

9 A -- and experience -- sorry.

10 Q No, go ahead.

11 A Training and experience has a -- a huge
12 amount and also the time on the street, the amount of
13 calls that they have handled, the amount of hot
14 calls, as they would say, active, fluid, tactical
15 calls compared to people that are brand new out of
16 the academy where everything to them is mesmerizing,
17 I would say, or their eyes are huge 'cause they've
18 never seen something like that.

19 And so it startles them or just -- not
20 startles them, but it's just an eye opening
21 experience 'cause maybe they've never seen that when
22 they were a civilian or not in the actual incident.
23 So the more experienced officers have time to talk
24 about it. They've discussed it more. They've
25 debriefed certain incidents more.

Examination of William Winters

1 Q And do you also take into consideration the
2 geographic proximity and obstructions in evaluating
3 their ability to recollect what they could observe
4 from their various angles and what they could not
5 observe?

6 A Yes.

7 Q So, for example, in this situation, because
8 of the video that was available, did you have an
9 opinion as to who -- if -- whether Officer Bianca was
10 closer to the other scene officers or further away
11 compared to some of the other scene officers?

12 A Observing the video in the -- the corridor,
13 the -- of the -- the apartment complex, she was more
14 at a greater distance than the other officers that
15 were in line, such as Officer Santos, Officer Budey,
16 Officer Piombo, Sergeant Kemple -- or Acting Sergeant
17 Kemple and Officer Doran.

18 MR. HANNON: Now -- and I'm sorry.
19 Let's -- before I move on, does anybody have any
20 follow-up questions related to either the training or
21 the perspectives so far?

22 Yes, sir.

23 A GRAND JUROR: I have one. For your
24 training and experience, how fast can a person close
25 the distance with a melee weapon on average, would

Examination of William Winters

1 you say?

2 THE WITNESS: I couldn't tell you on
3 average, but we've had training. From when I got
4 hired to -- up to now, it was -- they say within that
5 21-foot rule, is if someone has an edged weapon or
6 hands and feet or an arm -- you're armed with a
7 weapon, like, such as a gun or anything like that,
8 you're in an action/reaction.

9 You're at the disadvantage. Even if you
10 have your firearm out, you're at a -- you're reacting
11 off of what they're doing, so you're behind. You're
12 behind. You're playing catch-up. But within that
13 21-foot rule, there's times that people can get hit.
14 Like, they've done tons of training scenarios.

15 I've been in them. We've all been in them
16 at the Police Bureau where they've done the
17 action/reaction. There's times that you can't move
18 fast enough or they've already -- if it's with a
19 rubber knife or their hands and feet, they -- they've
20 touched you or grabbed onto you prior to you even,
21 you know, doing -- reacting to them.

22 And it's (snaps fingers) like that. It's a
23 snap (snaps fingers) of a finger and it's that --

24 BY MR. HANNON:

25 Q Now, you snap and -- and you're talking

Examination of William Winters

1 about 21-foot rule. The 21-foot rule, though, is no
2 longer really, from your training and experience,
3 a -- a rule that is necessarily followed or
4 adhered to?

5 A That is correct. That is a past -- that is
6 one when, like, I first got hired 20 years ago -- or
7 19 years ago, that's what they talk -- talked about.
8 And they showed all these different -- and, now, it's
9 just the -- the action/reaction, the totality of the
10 circumstances of everything happening at that time
11 that you've got to be on that reactionary.

12 You've got to -- you've got to weigh so
13 many things into your -- you know, the peripheral,
14 what's going on. You've got to weigh -- like, if
15 you're going to draw your firearm and do something,
16 you've got to know your backstop. You've got to know
17 where every shot's going to go. You know all that.

18 So the -- the reaction time when you're
19 addressing all that is a split second of everything
20 that's going to happen.

21 Q And so when you say -- so, now, under the
22 current rules since it no longer follows the 21-foot
23 rule, is it fair to say, from your training and
24 experience in these scenarios, as we've heard from
25 other training officers, that a person can close a

Examination of William Winters

1 gap of anywhere from 20 to 30 feet in seconds?

2 A Yes, and I've seen it. I've experienced
3 it. We've done training in different scenarios.
4 Like, we -- every year, we do these action/reaction
5 or we're -- use of force where you're -- you are on
6 the mats and there'll be a scenario that you don't
7 even know.

8 You walk into the room and, all of a
9 sudden, someone's charging at you. Now, react to it.
10 And they've got a weapon. Now, react to it and go
11 through your -- you know, the training. And then
12 we'd talk about it in debriefing after.

13 And there'd be times that people -- you
14 walk in a door and someone's right around the corner
15 and they're on top of you and then you've got to
16 react to that. So it's a split second. I mean --

17 Q Barring -- except for Officer Bianca's
18 statement, was there any other glaring
19 inconsistencies or issues from the various accounts
20 from what was observed in the video and then the
21 various accounts amongst each other?

22 A No.

23 Q Would it be fair from your opinion to
24 characterize any other inconsistencies as more minor?

25 A Minor stuff or people forget minor details

Examination of William Winters

1 compared to the glaring differences of what you saw
2 or heard.

3 MR. HANNON: Any follow-up questions so far
4 to any of that from the ladies and gentlemen of the
5 grand jury?

6 BY MR. HANNON:

7 Q We had another question that came up that
8 was a very good question that we didn't ask related
9 to the video and some of Mr. Martin's accounts that
10 are picked up on audio as he's walking away from the
11 officers.

12 I believe it's southbound on, at that
13 stage, Northeast 122nd, there's possibly a reference
14 by Mr. Martin as he's got a body-cam video. When the
15 scene was frozen and everything was seized around
16 him, was there any body-cam video found on
17 Mr. Martin?

18 A There was no body cam.

19 Q And was there any body-cam video found
20 within anywhere in the crime scene near Mr. Martin?

21 A No.

22 Q What about the path of travel from
23 Northeast 122nd down to Southeast 122nd on his way to
24 Ash Street?

25 A No.

Examination of William Winters

1 Q Now -- and as -- did he also mention,
2 though, in some of his statements that he -- either
3 to witnesses or that were caught on video that he was
4 a federal agent?

5 A That is correct.

6 MR. HANNON: Any followups to those
7 questions?

8 Yes.

9 A GRAND JUROR: Going back to the question
10 earlier, you know, would you consider, based on the
11 video, that Mr. Doran was possibly the closest to the
12 subject based on how --

13 THE WITNESS: Everybody would be --

14 A GRAND JUROR: -- they were aligned?

15 THE WITNESS: It almost looked like a line
16 kind of like -- and we -- there's a terminology
17 they've called of, like, just kind of creating the L,
18 so you're just kind of, like, having it from
19 different angles.

20 And looking at the video that I've seen, is
21 Officer Doran, obviously, if he was positioned where
22 he was at, it looks like there might have been a
23 metal pole --

24 A GRAND JUROR: Mm-hmm.

25 THE WITNESS: -- farther. So it looks like

Examination of William Winters

1 he has moved over so he has a different angle so he
2 could see a different angle from where Mr. Martin
3 was. And it looked like everybody was basically in
4 the same line and maybe Officer Doran was maybe a
5 foot, maybe to a foot and a half, just on estimate,
6 guessing, in front of them.

7 BY MR. HANNON:

8 Q So -- and to follow up on that question,
9 from what you saw of Mr. Martin in the reflection
10 of that window, was Mr. Martin -- you can't -- you
11 can't say with exact certainty where he was
12 positioned because it's not caught on camera at the
13 time the shots are fired?

14 A That is correct.

15 Q But when the reflection off the window next
16 to Officer Doran captures Mr. Martin, was he moving
17 or was he static?

18 A He was moving. And --

19 Q Okay.

20 A And it looks like he's moving, like, kind
21 of leaning forward, moving at a direction toward
22 them.

23 Q Well, regardless of what direction he's
24 moving in, though, would -- would that be helpful in
25 telling you -- if -- if he is moving, is it possible

Examination of William Winters

1 then the geographic proximity between any of the
2 officers in that line might be different depending on
3 the movement of -- of Mr. Martin?

4 A Yes.

5 Q So he might be closer to one, but he might
6 have moved closer to another. It's too difficult to
7 say based on the video?

8 A That is correct.

9 A GRAND JUROR: In the video in that
10 reflection, are you able to witness Martin reaching
11 for his waistband?

12 THE WITNESS: It's hard to see. Watching
13 it, we've slowed it down numerous times. You guys
14 have viewed it this -- as -- probably many times
15 also. It appears that he is doing something as he's
16 moving, so it appears like his hands are moving.
17 It's not like he's coming out like this.

18 It doesn't appear -- it just looks like
19 he's moving his hands toward his waistband. That's
20 what it -- when you slow it down. You can't tell
21 what he's pulling out at that time. You can't -- but
22 it's so quick that you don't know exactly what's --

23 BY MR. HANNON:

24 Q Well -- and to be clear, when you say he's
25 moving towards his waistband or -- or mid area, you

Examination of William Winters

1 don't -- he goes off of that reflection before the
2 critical moment; is that right?

3 A That is correct.

4 Q So it's -- you can't tell from the video or
5 the window if he is grabbing for something or if his
6 hands just moved down?

7 A That is correct. It just looks like he's
8 moving and it's gone.

9 MR. HANNON: Anybody else have any
10 questions?

11 A GRAND JUROR: I have one more.

12 MR. HANNON: Yes.

13 A GRAND JUROR: Okay. So I know they had
14 to do CPR and they moved the body and there was a lot
15 of motion, but is there any way that we can know if
16 the knife was on the ground or it was on the subject,
17 you know, after --

18 THE WITNESS: From what the briefing that
19 we received initially, an officer states -- and they
20 don't know which officer it was, but when they
21 started to work on Mr. Martin, the knife was
22 underneath him. So they moved it -- picked it up and
23 moved it away from where they were doing --

24 A GRAND JUROR: That's what I
25 (indiscernible).

Examination of William Winters

1 THE WITNESS: -- they were -- where they
2 were working on him.

3 A GRAND JUROR: Okay.

4 THE WITNESS: And it was instantaneous
5 that, as soon as the shots were fired, that there
6 were -- from statements made and video collected,
7 that they started first aid immediately up until
8 medical arrived.

9 BY MR. HANNON:

10 Q So, in other words, if I understand your
11 question and your answer, is it fair to say that the
12 amount of time you're trying to dissect between the
13 moment you see the smoke indicating that Officer
14 Doran has fired his gun to the moment they start
15 rendering medical aid is seconds?

16 A Seconds.

17 Q And in regards to that -- well, you've
18 heard testimony of -- to who may have seen the weapon
19 and then moved it. In that period of time, again,
20 we're dissecting or trying to account for seconds or
21 split seconds in that regard?

22 A That is correct.

23 A GRAND JUROR: Is there any way we can
24 look at the video of the time when the shooting
25 actually took place?

Examination of William Winters

1 MR. HANNON: Mm-hmm.

2 A GRAND JUROR: Who was in what position?

3 THE WITNESS: Yeah. And I can --

4 A GRAND JUROR: Can you tell us --

5 THE WITNESS: -- and I can tell you --

6 A GRAND JUROR: -- who that is?

7 THE WITNESS: -- who every, single
8 person is.

9 A GRAND JUROR: Okay.

10 A GRAND JUROR: Also, is there video or
11 pictures of behind where the fencing was? 'Cause
12 we --

13 MR. HANNON: Mm-hmm.

14 A GRAND JUROR: -- heard testimony there
15 was bushes, but can we see?

16 MR. HANNON: Yes.

17 THE WITNESS: Mm-hmm.

18 MR. HANNON: Let me --

19 A GRAND JUROR: Okay.

20 BY MR. HANNON:

21 Q So I'll do -- I'll -- let's grab the
22 photo -- or the video first 'cause that was the first
23 question. And then we'll grab (indiscernible) videos
24 next.

25 A Could we do all videos down below right

Examination of William Winters

1 there?

2 Q Oh, okay.

3 A Do you mind if I stand up real quick?

4 Q Yes. And what I -- what I would --

5 A Move back.

6 Q -- suggest is any --

7 A And back it up where it starts and I'll
8 kind of point out where everybody is as they're
9 approaching.

10 A GRAND JUROR: Okay.

11 (**TRANSCRIBER'S NOTE:** Video recording
12 played in Grand Jury as the witness is examined,
13 10:32 a.m.:)

14 THE WITNESS: Mr. Martin running,
15 obviously, westbound on Ash Avenue -- Ash Street
16 toward 120th. And the next video -- if you want to
17 pause right here. This is Officer Santos. This is
18 Officer Budey, Officer Doran.

19 A GRAND JUROR: Mm-hmm.

20 THE WITNESS: This is Acting Sergeant
21 Kemple with his less lethal. This is Officer Bianca,
22 Officer Piombo. This is Officer Ionesi. Right here
23 is Officer Leonard, Hristov.

24 A GRAND JUROR: They're basically shoulder
25 to shoulder --

Examination of William Winters

1 THE WITNESS: Mm-hmm.

2 A GRAND JUROR: -- right there.

3 A GRAND JUROR: So, like, right there seems
4 to be --

5 THE WITNESS: So the -- that --

6 A GRAND JUROR: -- the position they
7 were in.

8 THE WITNESS: So the position that they
9 were in, so learning from Officer Budey -- Budey, he
10 said Officer Santos was -- on the walk through, was
11 on his right side. Behind him, he said there was a
12 female officer. He didn't know exactly who it was.
13 Budey was right here.

14 Next to him, he remembers the 40 millimeter
15 'cause he looked over at one split second and knew
16 that it was -- and this was just a walk through that
17 we had had on the street through the scene. He knew
18 Kemple was there.

19 And he knew -- he looked over and he could
20 see Officer Doran had shifted over off to the -- to
21 the one side. And then he didn't know who was behind
22 him at the time of the shooting.

23 A GRAND JUROR: So in this, that's Kemple,
24 Ionesi --

25 THE WITNESS: So -- so -- or so out -- just

Examination of William Winters

1 outside the screen is going to be Officer
2 Christensen -- or Christian Santos. And behind him
3 was Officer Bianca. You saw her walk up.

4 A GRAND JUROR: Mm-hmm.

5 THE WITNESS: She's positioned behind.
6 Right here is Officer Budey. Right here is -- if you
7 want to back up (indiscernible).

8 MR. HANNON: Uh-huh. Oh, sorry.

9 THE WITNESS: No worries. So Officer
10 Kemple's right here. You've seen -- Piombo was
11 running up. Bianca is right here.

12 A GRAND JUROR: Mm-hmm.

13 THE WITNESS: And then Hristov is right
14 here, Leonard's right here and this is Ionesi walking
15 up with the shield --

16 A GRAND JUROR: Okay.

17 THE WITNESS: -- as the --

18 A GRAND JUROR: Is anyone to the left of
19 Officer Doran?

20 A GRAND JUROR: Yeah, I --

21 THE WITNESS: No. So he is up against
22 the wall right here, is the door frame. So he'd be
23 right here.

24 A GRAND JUROR: Mm-hmm.

25 THE WITNESS: Ionesi is behind him.

Examination of William Winters

1 A GRAND JUROR: Oh, oh, okay.

2 THE WITNESS: And as -- after the shooting
3 occurs, he walks up with the shield just to kind of
4 stand there. And he didn't put it in front of him.
5 If you watch the video, he doesn't put it in front.
6 He's just kind of standing there. But Doran is
7 literally down on a knee right here.

8 A GRAND JUROR: Yeah.

9 THE WITNESS: And Ionesi is behind him.

10 BY MR. HANNON:

11 Q So -- so just to be clear, this bent leg
12 right here --

13 A Yeah.

14 Q -- is Officer Doran's?

15 A Yeah.

16 Q And then just kind of -- just slightly back
17 and to the left, that's Officer Ionesi?

18 A Yes.

19 MR. HANNON: Okay.

20 A GRAND JUROR: Is that -- to our right, is
21 that Piombo?

22 THE WITNESS: Piombo -- if you back up, I
23 can -- so right here is Piombo running up and he's
24 literally going to be on his right-hand side --

25 A GRAND JUROR: Mm-hmm.

Examination of William Winters

1 THE WITNESS: -- right next to him.

2 Piombo's right here. This is Officer Budey -- or
3 Acting Sergeant Kemple.

4 A GRAND JUROR: Okay.

5 BY MR. HANNON:

6 Q So Officer -- at this point, Ionesi's
7 covering Officer Piombo?

8 A Yeah. And he's behind them, so he'd be --
9 here's where Piombo would be and Ionesi's walking up
10 as the -- what we're seeing.

11 Q These legs right here, those are Officer
12 Piombo's legs?

13 A That is correct.

14 A GRAND JUROR: So Doran and Piombo are
15 right next to each other?

16 THE WITNESS: Yes.

17 BY MR. HANNON:

18 Q So, again, we still have -- this is Officer
19 Piombo right here with --

20 A Yes.

21 Q -- Officer Doran --

22 A Who --

23 Q -- right to the left of him?

24 A Yes, that's knelt down. Ionesi's right
25 here, Kemple's right here, Bianca's back here behind

Examination of William Winters

1 them. Budey is literally right in front of her and
2 then Officer Santos is going to be to her right -- or
3 to his right.

4 Can we do (indiscernible) 5?

5 So this would be looking past where --
6 behind where -- the body would be approximately right
7 where they're at. And this is looking to the south,
8 so this would be leading up to the -- where the fence
9 is. This is an opening in the fence that's pushed
10 down.

11 Behind that wood -- or behind that Cyclone
12 fence is a wood fence that's kind of just mirrored up
13 to it maybe six to eight inches behind it. And
14 around that corner, it continues around.

15 Q And I believe one of -- one of the
16 questions also is: There was 11 casings recovered;
17 is that right?

18 A That is correct.

19 Q And four bullets were recovered at the
20 post-mortem examination; is that right?

21 A Mm-hmm, yes.

22 Q How many bullets were you able to recover
23 from the scene as -- as you and other detectives
24 looked in the area trying to recover as many bullets
25 or jacketing as possible?

Examination of William Winters

1 been from the scene -- from your -- from the scan.

2 It's from the Leica scan.

3 A GRAND JUROR: All of these officer
4 positions are self-assigned? Nobody's saying --

5 THE WITNESS: So at times when stuff is
6 fluidly happening, they are probably obviously
7 talking about -- we're taught to develop a plan as
8 we're going. Even if it's moving and it's not
9 like -- but there is times where people are assigned
10 as lethal cover.

11 There's people that are assigned to
12 less-lethal cover. There's people that are going to
13 be more of the less lethal, as in, like, a Taser.
14 There's going to be a person that could possibly be
15 the ECIT or the communication person.

16 There could be additional officers that are
17 assigned that, "You're going to be the custody team,"
18 or, "You're going to be the people putting hands on."

19 So there's different positions that --
20 everybody assumes that role, like -- and we're taught
21 that, like, if it's not talked about, if you're
22 looking and scanning, you're like, hey, that person's
23 got their lethal cover out.

24 Hey, that person has their Taser out. That
25 person's got 40 millimeter as their less lethal out.

Examination of William Winters

1 Hey, that person's not have anything out. It looks
2 like I should probably put gloves on and probably be
3 the custody team. So --

4 A GRAND JUROR: And that's what happened --

5 THE WITNESS: That's what --

6 A GRAND JUROR: -- here?

7 THE WITNESS: -- appears -- what we're
8 seeing here, yes.

9 A GRAND JUROR: Okay.

10 A GRAND JUROR: I think that picture was
11 part of the PowerPoint presentation --

12 MR. HANNON: Let me take a look.

13 A GRAND JUROR: -- that Detective Winters
14 started with.

15 MR. HANNON: This one?

16 A GRAND JUROR: No.

17 MR. HANNON: Well, and -- okay. Yeah. All
18 of the photos from Detective Winters came from the
19 scan of the actual crime scene that were embedded
20 with the crime scene. So I'll keep trying to look at
21 which photo you guys are looking for. What --
22 what -- what am I looking for in the photo?

23 A GRAND JUROR: If you walked all the way
24 to the Cyclone and executed a right-hand turn, what
25 do you see?

Examination of William Winters

1 THE WITNESS: Down there is -- when you
2 look down there and you turn to the right. So the
3 Cyclone fence butts up to right here to the edge of
4 the building. If you come through that right there,
5 there is enough space that it's like a walkway.

6 Like, there's an opening between the wood
7 fence and the Cyclone fence that if he turned right,
8 he could have continued down. There's nothing there.
9 There's the back side of the apartments.

10 A GRAND JUROR: Okay.

11 MR. HANNON: Yeah. And I think that was
12 more testimony. I don't think we actually showed a
13 photo of that.

14 A GRAND JUROR: Oh, so did that answer your
15 question?

16 A GRAND JUROR: Mm-hmm.

17 A GRAND JUROR: Okay.

18 MR. HANNON: We did show the aerial. Was
19 there anything behind, I think was the --

20 A GRAND JUROR: I just remember seeing
21 bushes. And the question was: Would a -- is, would
22 a person look at that and go, I can't go that way?

23 MR. HANNON: Okay. Anybody else have any
24 questions for Detective Winters at this time?

25 Okay. Why don't we go off the record, take

Examination of Gary Richard Doran

1 a mid-morning break and prepare for our next witness?

2 THE WITNESS: Thank you.

3 (Recess taken, 10:42 a.m. - 11:29 a.m.)

4 MR. HANNON: Okay. We're back on the
5 record to resume testimony on Grand Jury 3, Case
6 No. 54. State calls its next witness.

7 Officer Doran. Okay. If you could just
8 stand right there, raise your right hand and we'll
9 swear you in.

10 GARY RICHARD DORAN

11 Was thereupon called as a witness; and, having been
12 first duly sworn, was examined and testified as follows:

13 EXAMINATION

14 BY MR. HANNON:

15 Q And I'm sorry, Officer Doran. We are
16 recording this, so if you don't mind speaking a
17 little louder, that'd be great.

18 A Okay.

19 Q Before we go into any questions, could you
20 please state and spell your name for the record?

21 A Gary, G-a-r-y; Doran, D-o-r-a-n.

22 Q And is that how other officers and people
23 call you or do you have -- go by any other name?

24 A I also go by Rick --

25 Q And --

Examination of Gary Richard Doran

1 A -- which my middle name is Richard.

2 Q Got it. And, Officer Doran, how old are
3 you?

4 A 39.

5 Q And could you please -- please outline for
6 the ladies and gentlemen of the grand jury your
7 educational background prior to becoming employed?

8 A I received a bachelor's degree from
9 Portland State University --

10 Q Well, I'm sorry, let me --

11 A -- (indiscernible).

12 Q -- interrupt you real quick. Where'd --

13 A Yeah.

14 Q -- you go to high school?

15 A Bend High School, Central Oregon.

16 Q And after Bend High School, what did
17 you do?

18 A Then I joined the Marine Corps.

19 Q Okay. And how long were you in the
20 Marine Corps?

21 A I was in there approximately four years.
22 I was an embassy guard for a short time at different
23 posts overseas where I held a top-secret security
24 clearance. And that was not so much focused on
25 enforcement, but more protection of classified

Examination of Gary Richard Doran

1 person -- classified information and protection of
2 personnel abroad at embassies.

3 Q And just by way of training while doing
4 that -- while in that role within the Marine Corps,
5 was there any sort of training that you had to
6 undergo in regards to embassy guard or duty?

7 A Yes, there was. I don't recall exactly how
8 long the school was, but, you know, some of the
9 training had to do with just how you interact with
10 peoples of other cultures overseas, how you are
11 mindful of other cultures, not creating international
12 incidents, things like that.

13 Q And was that primarily protection or was
14 there any sort of enforcement component working as
15 an embassy guard?

16 A It was primarily protection.

17 Q Okay. Now, you mentioned that you were in
18 the Marine Corps for about four years. What did you
19 do after leaving the Marine Corps?

20 A When I got out, that -- then I started
21 going to school here at Portland State.

22 Q And what was your degree in at Portland
23 State? Well, let me ask you this: Did you graduate
24 at Portland State?

25 A I did, yes.

Examination of Gary Richard Doran

1 Q And what'd you receive a degree in?

2 A Political science.

3 Q Any other education in addition to the
4 degree in political science?

5 A Not prior to being hired.

6 Q Okay. And when did you graduate from PSU?

7 A 2006.

8 Q And after graduating from Portland State
9 University, did you hold any employment after that?

10 A I don't believe so. If I did, it might
11 have just been through temp agencies while I was
12 waiting to get hired here with Portland.

13 Q And is it my understanding -- or am I
14 accurate that you also have other military experience
15 or work with the military in addition to the Marine
16 Corps?

17 A Yes. From 2016 to 2019, I was in the
18 Oregon Army National Guard. And there, I served as a
19 religious affairs specialist, also kind of referred
20 to as a chaplain's assistant. And so I helped
21 provide religious support to soldiers and their
22 families.

23 Q But it sounds like that was several years
24 after graduating PSU?

25 A Correct.

Examination of Gary Richard Doran

1 Q When were you -- approximately when were
2 you hired by the Portland Police Bureau?

3 A 2007. January 2007.

4 Q And could you briefly outline kind of
5 the different training and experience that you had
6 surrounding your hiring with the Portland Police
7 Bureau?

8 A At the time, there was the basic academy
9 through the State. It was approximately 16 weeks.
10 And there are various topics from law to dealing with
11 people with mental health issues. There's, you know,
12 report writing. There's patrol vehicle operation,
13 defensive tactics, a number of different things.

14 Q And in addition -- and the basic academy,
15 that's something that's put on by the State?

16 A Yes.

17 Q In addition to attending the basic academy,
18 was there any additional training you received in --
19 in regards to your hiring with the Portland Police
20 Bureau?

21 A At that time, Portland also had an advanced
22 academy that was approximately 16 weeks. And that
23 was more of the same that the State provided, but it
24 was more focused on Portland city ordinances,
25 Portland's way of doing business.

Examination of Gary Richard Doran

1 Q So in the advanced academy, it's -- unlike
2 the basic academy, it's more zeroed in and focused in
3 on Portland issues and --

4 A Correct.

5 Q -- Portland -- and as part of that, are you
6 trained on the Portland policies and -- and
7 procedures on a variety of issues?

8 A Yes.

9 Q And in addition to the advanced academy,
10 was there any sort of field training officer program
11 that you had to participate in as part of your hiring
12 with the Portland Police Bureau?

13 A Yes, there was.

14 Q Tell me about that.

15 A So that is -- after you've gone through the
16 basic academy, the advanced academy, then you go out
17 and you're with a -- an officer in the field
18 sharing -- sharing a car and basically being mentored
19 for several months after that to make sure you're
20 able and qualified to go out on your own.

21 Q And is it -- is it kind of a -- you have to
22 succeed through that field training officer program
23 or is it just by being in it, you participate until
24 they clear you for the road? How does that work?

25 A You have to succeed. There are daily

Examination of Gary Richard Doran

1 evaluations and they evaluate you on everything from
2 your appearance all the way to, you know,
3 multitasking, how you handle a call, your knowledge
4 of law, your knowledge of policy, the way you
5 interact with citizens, cultural awareness, all kinds
6 of things.

7 Q And did you successfully complete the field
8 training program?

9 A Yes, I did.

10 Q So approximately how long have you been a
11 police officer with the Portland Police Bureau?

12 A Almost 13 years.

13 Q And if I heard or understood your testimony
14 correctly then, at some point after being hired by
15 the Portland Police Bureau, you also took on a role
16 with the Oregon Army National Guard as a reserve?

17 A Yes, sir.

18 Q Okay. With regards to the -- working with
19 the Portland Police Bureau, in addition to your basic
20 academy and your advanced academy and your field
21 training program, is there any ongoing training that
22 you also have to go through to maintain your role as
23 a police officer with the Portland Police Bureau?

24 A Yeah. So every year, we have continual
25 training through our annual in-service. A lot of

Examination of Gary Richard Doran

1 that training is to maintain your -- your
2 certification, the skills you need. That's required
3 by the State. And there are also things that the
4 City believes is important, things to be trained on.

5 So we have the annual in-service, then
6 there's also periodic trainings that come out, roll
7 call trainings. Sometimes they're in roll call.
8 Sometimes it's on an electronic system that we can
9 log into in the vehicle or on a computer and watch
10 a -- a prerecorded training video. So it's constant
11 and ongoing.

12 Q And some of those trainings with the City
13 of Portland, in addition to your ongoing in-service
14 training to maintain certification, those are
15 mandatory to stay in compliance with the Portland
16 Police Bureau?

17 A Yes, sir.

18 Q Now, you mentioned roll calls. Could you
19 describe for the ladies and gentlemen of the grand
20 jury kind of what -- what is a roll call? What --
21 what -- what goes on in a roll call?

22 A A roll call is where officers who are going
23 to be working that shift will come in and will sit in
24 front of a supervisor who has information to pass for
25 the day. It can be anything from, you know, "A crime

Examination of Gary Richard Doran

1 was committed last night. Here's a flyer for that
2 person. If you run into that person, you might be
3 able to make an arrest in this case," things like
4 that.

5 It might also be awareness training,
6 different videos to -- to keep you aware of some of
7 the dangers you might face on the street. You know,
8 Fentanyl, for example, if Fentanyl is a dangerous
9 thing out there, officers need to be aware that, you
10 know, even touching it or inhaling it can be deadly.

11 And so -- so it's -- it's kind of a
12 constant awareness and what to expect for the day and
13 things like that.

14 Q And what is CIT training?

15 A CIT, I believe, stands for crisis
16 intervention training. The City of Portland, every
17 officer receives crisis intervention training. There
18 are some officers who have -- are enhanced E -- ECIT
19 certified. And those -- they go for an additional
20 40 hours of crisis training.

21 Q And just from your own experience, what
22 is -- are you -- did you go through the crisis
23 intervention training?

24 A Yes.

25 Q And what are some of the concepts that you

Examination of Gary Richard Doran

1 were trained on as in regards to crisis intervention
2 training as it applies to your everyday work?

3 A A lot of it can be recognizing folks who
4 are in mental health crisis or folks that have --
5 that are dealing with mental health issues. There --
6 they discuss different types of mental health issues.
7 They can talk about mental health cycles.

8 You know, they -- they can integrate
9 deescalation into that. Deescalation can be
10 deliberate attempts to reduce the amount of necessity
11 of force in dealing with people with mental health
12 issues.

13 Q Okay. And do you recall how long ago you
14 received your crisis intervention training?

15 A I don't recall, but I do know that every
16 year, every in-service, there's continued refreshment
17 and then roll call videos as well.

18 Q And have you been able to apply any of
19 that training or guidance as to things to look for or
20 concepts of deescalation in any of your other calls
21 prior to this incident?

22 A I would say I do that pretty much on a
23 daily basis. I have interacted with -- well, in
24 fact, when I approach a call, the way Portland
25 defines it, it can be -- it's -- it's so broadly

Examination of Gary Richard Doran

1 defined, I should say, that I just approach everyone
2 as if there might be some type of underlying mental
3 health issue. And so I apply it daily in my job.

4 Q Okay. So before we get more into some of
5 the details related to this particular case, is it
6 true that you are here voluntarily?

7 A Yes.

8 Q In fact, if -- if you chose to, you
9 didn't -- you don't have to testify or be here?

10 A Correct.

11 Q In addition to that, is it true that there
12 is a Portland Police Bureau order in effect
13 restricting your communications with any other
14 officers related to this case?

15 A Correct.

16 Q And -- and do you wish to continue
17 testifying in regards to this incident?

18 A Yes.

19 Q So turning your attention to this
20 particular day and incident, first, what -- what is
21 your -- at the time of this incident, what is your
22 shift? What do you work?

23 A I have -- I work Monday through Thursday
24 from 4:00 in the afternoon 'til 2:00 in the morning.
25 So I have Friday, Saturday and Sunday off.

Examination of Gary Richard Doran

1 Q And so is it -- and what -- approximately
2 how many hours is in that shift, not including if you
3 were held over or had other overtime obligations?

4 A Those are four ten-hour shifts.

5 Q And which precinct do you work with?

6 A East Precinct.

7 Q And how long have you been working with
8 East Precinct prior to this incident?

9 A When I initially got hired, I was out there
10 for approximately five years. I went to Central
11 Precinct for approximately five years. And so I had
12 been back for approximately two.

13 Q So turning your attention to this case, did
14 you have a chance to go to a roll call before
15 learning of anything developing that was out of the
16 ordinary? Do you recall if there was a roll --

17 A I'm sorry. On that day, did I have a
18 roll call?

19 Q Yeah. Did you go to roll call --

20 A Yes.

21 Q -- before this all occurred?

22 A Yes. Yes, sir.

23 Q Okay. And -- 'cause it was my
24 understanding -- and correct me if I'm wrong --
25 that this incident kind of transpired during a --

Examination of Gary Richard Doran

1 a shift change with the Portland Police Bureau; is
2 that right?

3 A Yes, sir.

4 Q And could you just outline from -- from
5 your own experience, what does that mean by "shift
6 change"? What's -- what's going on with the Bureau
7 when there's a shift change?

8 A When there's a shift change, you have
9 officers who are -- who have completed their ten-hour
10 shift who are returning back to the precinct. And
11 then the new shift who is currently on roll call,
12 they are being released to go out and fill the
13 districts that the day -- day -- well, the previous
14 shift are leaving.

15 We're coming out to take those spots.
16 There's also -- in the last several years, they've
17 added a shift that covers the overlap. So we have an
18 A shift, which is a day shift, 7:00 to 5:00. Then we
19 have a B shift, I believe is 10:00 a.m. to 8:00 p.m.
20 And then the C shift comes on at -- at 4:00 p.m.

21 Q Got it. So -- and turning again to this
22 case, you were able to go to a roll call. What was
23 the first thing you recall happening -- or be -- or
24 what was the first thing you recall being aware of
25 something out of the ordinary regarding this

Examination of Gary Richard Doran

1 particular set of facts?

2 A With this incident, I -- I had already
3 prepared my patrol car. I put my -- my patrol bag in
4 it and I parked it out in front of the precinct, so
5 that way I would be ready to go when roll call
6 finished.

7 I got into my car and I drove up to the car
8 wash, the Chevron at around 100, I believe, it is in
9 Stark or Washington. And I was getting ready to go
10 through the car wash. I like to have the car clean.
11 It looks professional. It looks good, represents the
12 City well, I can see out of the windows, things
13 like that.

14 So I was waiting in line for the car wash
15 and there was a car in front of me on the rack. So I
16 couldn't actually pull on the rack. And I remember
17 hearing the call come out in the area of 122nd
18 and Glisan.

19 And from what I recall, it was -- had
20 something to do with a security guard who, I believe,
21 was witnessing a -- a man breaking into vehicles.
22 And so he approached the man and the man pulled a
23 knife on him.

24 And I remember hearing that the security
25 guard backed away and called police for help. And

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1 that's kind of remember what started as I was sitting
2 in the car wash.

3 Q And -- and these calls that you are
4 listening to, that's not the actual 9-1-1 call, but
5 these are, I -- I presume, dispatch?

6 A Correct. So whoever calls calls into the
7 dispatch center and there's a call taker who takes
8 the call and they send information that they're
9 receiving from the call taker to the dispatcher. And
10 then the dispatcher relays it to us by voice.

11 Q And is there any -- is it all audio or is
12 there anything that shows up in your computer CAD
13 system or anything like that?

14 A There's some that shows up on the computer
15 CAD system as well.

16 Q And in this particular case, did you -- did
17 you receive your updates by -- by the radio, the
18 computer or both?

19 A Mine was all voice because I hadn't even
20 logged in. I didn't even have my computer on. I
21 was booting the computer up as I was waiting at the
22 car wash.

23 Q And when you heard that, I -- I presume if
24 you were on the rack or in line and someone was on
25 the rack, were you able to pull out of the car wash

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1 or did you kind of have to let the car proceed
2 through normal course?

3 A No. I was able to back up and drive out of
4 the parking lot.

5 Q So you didn't get in the car wash?

6 A No.

7 Q Okay. And was there a particular reason
8 why -- I mean, was there anything about the call that
9 suggested to you to take a break on the car wash and
10 go respond to the call?

11 A So, initially, I -- I just waited and I
12 listened. I did not feel pressure to go to the call
13 at that point because I remember hearing officers
14 discussing the resources, discussing changeover,
15 shift changeover.

16 There was -- there was planning going on as
17 far as getting an enhanced -- ECIT officer to
18 respond. And I remember hearing discussion about it
19 being shift changeover and there weren't any
20 available, should they call out to another precinct
21 to get one.

22 And I remember at that point, officers, I
23 don't believe, felt it was necessary to call to an
24 outside precinct at that time that I was start --
25 beginning to listen. So I thought, well, they must

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1 have enough resources. I don't need to go.

2 And so as I waited, then I heard an update
3 about the man who pulled the knife on the security
4 officer now went to a bus stop on 122nd and was
5 swinging an axe at people waiting for the bus stop.

6 At --

7 Q And, again, these are not the -- any 9-1-1
8 calls. This is update you're receiving from --

9 A Correct.

10 Q -- the radio?

11 A This is what I'm listening dispatch airing
12 to officers.

13 Q Okay. Okay.

14 A And then -- then I remember officers were
15 still responding. I believe an officer arrived on
16 scene. I believe it was Officer Zentner.

17 From what I know of her voice, I believe
18 that was her. She aired over the air -- the radio
19 that the man was now swinging a machete at people and
20 she needed additional resources.

21 And so it was that moment when I heard that
22 officer who was on scene and can see her -- for
23 herself and, now, there's three different weapons
24 being used against people and she was asking for
25 additional resources. That's the point where I

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1 decided I needed to go help.

2 Q And to recap, if I understand correctly,
3 the three different weapons at that point would be a
4 knife, a machete and an axe?

5 A Correct.

6 Q And, again, this is just information you're
7 receiving over radio?

8 A Correct.

9 Q So were you still at the car wash when you
10 received that last update from Officer Zentner?

11 A Yes.

12 Q And it's that point you pulled out of the
13 car wash?

14 A Yes. That's when I decided to pull out of
15 the car wash and -- and go to help.

16 Q Okay. What did you do next? What
17 happened next?

18 A So I drove up north on 102nd and then I
19 turned east on Glisan and I drove up to the Safeway
20 where this started at around Glisan and 122nd. And
21 then I proceeded south toward Burnside, as there was
22 information that the -- the suspect in this case was
23 approaching Burnside.

24 When I arrived in the area of Burnside, I
25 could see officers out in the middle of the street

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1 in the southbound lanes. Those officers had the
2 40-millimeter less-lethal tool.

3 And it looked really dangerous because cars
4 were still flowing. There were a lot of people out.
5 It was warm. It was hot, sunny. And so as I
6 approached, I turned in front of the southbound
7 traffic and I parked my car just north of Burnside to
8 block both of the southbound lanes.

9 And my intent was to park the car there and
10 to leave it to physically block the southbound
11 traffic to -- to make it safer for the officers that
12 were in the street and for anybody else that was in
13 that area so nobody hopefully would get hit by a car.
14 When I parked --

15 Q Well, let me slow you down real quick.

16 A Yeah.

17 Q I appreciate that. So if I -- if you --
18 you're approaching Burnside from Northeast 122nd?

19 A Correct.

20 Q Heading southbound?

21 A Yes.

22 Q And you heard the suspect was approaching
23 Burnside. At that point, as you were approaching
24 that intersection, had you actually made any
25 visual -- I -- if I understood correctly, you made

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1 visual of officers in the middle of the street, but
2 did you make any visual contact while you were in
3 your patrol vehicle with -- with the suspect or
4 person yet?

5 A Yes. I saw the suspect on the western
6 sidewalk of 122nd and he was moving south. And I
7 saw him with a hatchet in his hand that had kind of
8 a lime-green handle. And he was holding the hatchet
9 up over his head and then he was swinging it down.

10 And I saw him aggressively pointing at
11 officers kind of -- and I didn't know what he was
12 saying, but his body was communicating -- 'cause as
13 I get out of my car, I --

14 Q And this is -- sorry to interrupt you
15 again. So --

16 A Yeah, yeah.

17 Q -- as you get out, so you've now blocked
18 the southbound traffic?

19 A Yes.

20 Q Was it -- were you driving or were you
21 parked when you were able to see both the officers in
22 the middle of the street and the suspect in the
23 westbound lane, if you recall?

24 A I don't recall, but I believe I could see
25 him -- I'm -- I'm -- I'm leaning more to, yes, I saw

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1 him from my patrol car. Through the front window, I
2 could see exactly who it was on the sidewalk.

3 As the officers were addressing him, they
4 were attempting to communicate with him and people
5 were clearing out of the way and giving him a path
6 to -- to move.

7 Q And one more followup from your actions
8 before getting out of your vehicle. What -- why was
9 it in your interest to block the southbound lanes?
10 What were some of your concerns as you were doing
11 that in relation to both the officers and the person
12 that you were responding to?

13 A So my primary concern was to -- for
14 everyone's safety, to prevent officers from getting
15 ran over, to prevent the suspect from getting ran
16 over. If suspect attacked somebody and they didn't
17 have anywhere to go 'cause there were buildings
18 there, they would probably run out in the street.

19 And so I wouldn't want them getting hit by
20 a car. So that was my primary purpose, but it's also
21 to help -- kind of a -- more of this deescalation
22 tactics to block traffic, to -- to stop vehicles from
23 moving through.

24 As additional officers would arrive, they
25 could stop pedestrian traffic from coming through.

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1 And so the idea is to isolate the area, to get people
2 out of the area, to make it safe so we could, if we
3 needed to, just sit there and talk with him for
4 hours. We -- we do it all the time. We'll shut down
5 bridges.

6 If someone's in crisis, we will spend -- we
7 will shut everything down for hours. And so -- so
8 that was kind of the secondary intention, was to --
9 to stop people from coming into the area and make it
10 safe so that we could engage and -- and continue
11 to talk.

12 Q So you blocked that -- the southbound lane.
13 You're observing what you're observing. At that
14 point, do you get out of the vehicle?

15 A Yes.

16 Q And -- and do you have anything with you as
17 you get out of the vehicle?

18 A I don't. I just have myself and -- and
19 my uniform.

20 Q Okay. And you mentioned the less-lethal
21 tools. What, if anything, do you have for either
22 less-lethal or lethal tools in your possession
23 depending on how the situation evolved?

24 A So my -- on my uniform, I have a -- a
25 baton. I have pepper spray. I have a Taser. I have

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1 my firearm, which is not less lethal. That's -- and
2 I believe that's it.

3 Q Okay. And do you have handcuffs with you
4 as well?

5 A Yes.

6 Q Okay. Now, as you get out of the car, what
7 happens next?

8 A So as I get out of the car, I walk kind
9 of south and then southwest to get onto that western
10 sidewalk. As I see, there's another officer on that
11 sidewalk walking 30 -- approximately 30 to 40 --
12 40 feet behind the suspect following him as he -- he
13 proceeds south. And so I connect with that officer
14 and --

15 Q Do you recall which officer that was?

16 A I don't. I believe it was probably a newer
17 officer, probably A shift or B shift, maybe only a
18 year two on. I -- I really don't know.

19 Q Okay.

20 A I didn't recognize the officer.

21 Q Okay. So you -- you pair up with that
22 officer. And do you guys then walk with the same
23 pace as -- in that same direction or do you guys
24 stop?

25 A Yeah. So as we were walking, I could feel

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1 him trying to move closer and faster. And so I told
2 him, "Hey, stay back. Let's" --

3 Q "Him" being the officer that was with you?

4 A Correct.

5 Q Okay.

6 A I told him, "Hey, let's slow down. Stay
7 back. Let's stay shoulder to shoulder," and -- and
8 the intent of that was to keep space for this
9 continued deescalation to have time to respond, to
10 give him some space so he's not feeling pressured.
11 Hopefully --

12 Q "He" being?

13 A The suspect.

14 Q Okay.

15 A Hoping that we could engage with him and
16 talk to him, try to get him some help if he wants
17 help. And it's also for us to stay with each other.
18 So depending what happens, if less-lethal force is
19 used or any type of force is used, we are in a safer
20 position where, you know, he's not running forward to
21 precipitate any kind of use of force if we can all be
22 in a line and kind of move together.

23 Q And would that -- was the -- to be
24 together, is that also creating the sort of
25 situations where you could cover each other?

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1 A Yes. Yes, it does. It keeps it --

2 Q Go ahead.

3 A It keeps it safer to where -- so part of
4 what we were doing as we were approaching is trying
5 to gauge how much distance we give him. And so when
6 we were not around other people or other citizens in
7 the area, we would give him a little bit more space
8 and more time.

9 But as he approached the bus stop and there
10 are people right there just a couple feet away from
11 him, we would close that distance a little bit so we
12 could help if he decided to attack them.

13 And so part of that reason for us to stay
14 shoulder to shoulder is if he does go to attack
15 somebody and we have to react, there's not a risk of,
16 you know, possibly being shot in the back by our
17 partner or something like that if -- if needed.

18 Q Okay. And this bus stop, is that -- is
19 that the MAX platform area or is this a different
20 bus stop?

21 A Oh, sorry, yes. I said, "bus stop," but I
22 mean the MAX train platform at 122nd and Burnside,
23 the one that runs east to west.

24 Q Okay. And just to get my geography then,
25 when you used your car to block southbound traffic,

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1 was that on the northbound side ahead of Burnside
2 before --

3 A It was on the north side of Burnside
4 blocking the southbound lanes.

5 Q Got it. Now, just as an aside real quick,
6 as -- as I ask you these questions, am I -- am I
7 correct that, as I'm breaking these questions down
8 for you, that I'm breaking down minutes of decision
9 making or seconds of decision making?

10 A This is seconds. I mean, this happened so
11 quickly. Everything as I take it in, as I'm
12 evaluating, I'm doing a risk assessment. I'm
13 evaluating what roles need -- need to be filled.
14 This is why, for example, I didn't approach with my
15 Taser because I already saw two less lethals doing
16 their job.

17 And I already heard someone communicating,
18 talk -- trying to give commands and trying to
19 establish communication. So I didn't approach and
20 begin giving commands. And so part of it -- it's all
21 just seconds.

22 I'm amazed at how much we can take in and
23 process in such a short amount of time. And so while
24 this is unfolding, I -- like, for example, parking to
25 block traffic.

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1 I had no idea who was going to be there, if
2 traffic was already going to be blocked or not, so
3 it's just kind of as it happens, I'm trying to -- to
4 react as it happens.

5 Q And as you're making these decisions, is
6 there a static approach or is your decision making
7 evolving as the situation dictates?

8 A It just evolves as he leads us on where --
9 what he's doing, where he wants to go. We're trying
10 to -- to safely respond to that as we can.

11 Q So as you're standing with someone next to
12 you, are you guys moving in the same direction that
13 the suspect is traveling?

14 A Yes.

15 Q And what, if anything, happens next as you
16 guys are following, but at a distance?

17 A So as we're following, he -- I see him --
18 at one point, he's raising the hatchet and he throws
19 it down by his side and he's aggressively pointing at
20 the officers.

21 And so as the officers are giving commands,
22 the three main commands I remember hearing are, "Drop
23 the weapon. Show us your hands. Get on the ground."
24 And I remember hearing those repeatedly, repeatedly.
25 I also remember, you know, "What's your name? What's

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1 your name, sir?"

2 And -- and so the -- the person who was
3 giving the commands and trying to establish
4 communication was trying different -- different
5 approaches, giving orders, telling him to drop the
6 weapon, but also trying to establish a
7 personal connection.

8 "What's your name? Let me talk to you by
9 name." And -- and so as -- as we are following, the
10 suspect wants nothing to do with any type of help
11 whatsoever.

12 And his body language -- I don't know what
13 he was saying, but it was communicating, I am not
14 doing what you say and if you get any closer to me, I
15 am going to use this hatchet on you, Officer, who I
16 am pointing at, was what we -- he was clearly
17 communicating.

18 And he was -- he was just angry and just
19 spitting through his teeth and clenched jaw and just
20 seething with this negative, angry energy. And he --
21 he -- just his body, he -- he had no indication that
22 he was going to give up or was going to communicate.

23 He was light on his feet. His muscles were
24 tense and tight. He was not looking at all tired.
25 He wasn't looking fatigued. He wasn't looking like

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1 he was in pain.

2 And I -- from my evaluation, I thought,
3 without a doubt in my mind, he is under the influence
4 of some type of chemical stimulant. And I've dealt
5 with a lot of people -- on a daily basis, I deal with
6 people who are under the influence of -- of
7 something.

8 And I've had it happen many times where
9 somebody's under the influence of meth or bath salts
10 or -- or whatever stimulant it -- it might be and
11 their body, they almost can't control it.

12 And they're just -- they're -- they're
13 moving and they're -- they're twitching and -- and
14 they just cannot control it. But I can communicate
15 with them. And I'll ask them, "Hey, that does not
16 look very comfortable. Can I help you?"

17 "Yes. You know, I took a bad batch of meth
18 and I just cannot control myself."

19 "Let me call you an ambulance. Can I
20 do that?"

21 "Yes. Yes, please. And they -- you know,
22 they'll give me a shot of something that'll help calm
23 me down." And so I say, "Okay. You stay over there.
24 I'll stay over here. We'll just wait for the
25 ambulance and we'll get you some help."

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1 "Okay. Thank you." And they'll -- they'll
2 be sitting there twitching. So I've dealt with that.
3 I've also dealt with people who are incredibly high
4 on the stimulant and, you know, say, if I'm doing an
5 investigation, for example, and I see there's a
6 needle sticking out of their pocket and I -- and I
7 talk to them, "I know you're under the influence of
8 meth and I know you injected."

9 And, "I don't know what you're talking
10 about. These aren't my pants." And so there's a lot
11 of logical thought here. This guy, he was not
12 mumbling. He was not out of his mind. He was
13 extremely high, but he knew exactly what he was
14 doing. He was not communicating. He did not want
15 help.

16 And, in fact, he want -- he was looking for
17 confrontation -- confrontation. And his body
18 language, he was telling the officers, you know, if
19 you approach me, I will use this against you.

20 Q Was there any -- did you observe any
21 less-lethal force used on this individual as you were
22 pacing him with this other officer to your right?

23 A I did. To my left, there was an officer.
24 I believe it was Officer Bianchini. And then to his
25 left, I believe -- I don't know who that officer was,

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1 but he also had a less lethal. And I saw a less
2 lethal deployed and a -- what I perceived to strike
3 his low -- suspect's lower left leg.

4 And it had just a momentary response in
5 that he hopped on his right foot just a moment. Then
6 he put his left foot down and was immediately right
7 back angry and aggressive and threatening. So it
8 was -- it -- it didn't even faze him.

9 And I've seen this tool used before. I've
10 seen people go down. I've seen people give up and I
11 know it's effective. And so for him to not feel any
12 pain, it was -- it was very scary.

13 Q Did you ever see a -- a second one used or
14 was that the only one?

15 A Yes. And then -- so I saw a second one
16 shortly after it -- it -- what I perceived as
17 striking him in the same spot in the lower left leg.
18 Same reaction, momentary hop and, again, nothing, not
19 feeling any pain.

20 Q Now, these less-lethal rounds, were these
21 used near any sort of buildings or establishments as
22 you were following the individual?

23 A They were south of Burnside and the suspect
24 was in the middle of one of the southbound lanes of
25 122nd. And then the two officers who deployed their

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1 rounds were further into the middle of 122nd. And
2 they fired them to the south -- kind of
3 south-southwest, so it was out in the middle of the
4 street.

5 Q And these two officers who fired, were
6 they then ahead of you facing this person or were
7 they parallel to you? Where were they in relation
8 to you?

9 A They were just slightly ahead of me. We
10 were kind of paralleling, but they were slightly
11 ahead of me, almost kind of flanked out a little bit
12 to -- to the left, so, you know, maybe two or three
13 feet, Officer Bianchini was in front of me and then
14 in front of him maybe two or three feet, but further
15 to his left kind of going around, almost like a half
16 circle.

17 Q Okay. Was there any thoughts of this
18 person entering any buildings or stores in the nearby
19 area that gave you concern?

20 A Yes. So -- well, at Burnside, there's a --
21 a mini market right on the corner. It's on the
22 southwest corner. And there's a door that faces kind
23 of to the northeast. And at one point, as the
24 suspect's crossing Burnside, he approaches the
25 sidewalk in front of the store.

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1 And I remember a woman was standing right
2 outside there and this gave us cause for concern, so
3 that was one of the points where we closed the
4 distance a little bit not knowing if he was going to
5 attack her or Officer Bianchini expressed his concern
6 that he might -- suspect might go into the store.

7 And so Officer Bianchini tells me, "He
8 does not get into that store. He cannot get into
9 that store."

10 Q And is he telling that, like -- telling
11 that verbally or is that through the radio that you
12 guys can hear each other? How is he communicating
13 that to you?

14 A That's verbally to me that I remember him
15 speaking to me --

16 Q Okay.

17 A -- from my left.

18 Q So did that occur before or after the
19 less-lethal rounds or the 40 millimeter were
20 deployed?

21 A That was before the less-lethal rounds.

22 Q Okay. And was there anything that you did
23 after Bianchini communicated that to you to minimize
24 the chance or kind of steer this individual from
25 going into that store?

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1 A Not that I recall. From what I recall, I
2 remember closing the distance a little bit. But I
3 was trying to take in -- you know, and somewhere
4 around this point, I saw the suspect get down and he
5 was crouched doing something. I -- I was -- wasn't
6 sure exactly what he was doing.

7 But I'm trying to watch the people around
8 me and the traffic and -- and -- and, you know, the
9 other innocent lives that are there and then the
10 store hoping the door doesn't open.

11 And I just really remember hoping, oh, I
12 hope he doesn't go in the store 'cause this is going
13 to be horrible. If he goes in the store, there's
14 potential for hostage.

15 There's -- we -- we lose all kind of
16 advantage because, now, if we have to funnel into
17 that store to provide help to anybody, it's going to
18 be one officer going through the door at a time.
19 It's just a horrifying scenario.

20 So I just remember being extremely relieved
21 as he kind of decided to walk away and continue down
22 the street.

23 Q And it's after that that the -- Bianchini
24 and another officer deployed the less-lethal rounds?

25 A Yes, sir.

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1 Q At any point as you were facing this
2 individual with another officer nearby, did you ever
3 see the individual drop the hatchet?

4 A Yes. So I saw him -- from what I recall,
5 there was -- on the -- on the sidewalk -- so if I'm
6 on 122nd, I'm going south, I have the western
7 sidewalk that -- that runs alongside of this
8 supermarket I was just referring to. And there's
9 kind of a square in the cement that's a base for a
10 tree.

11 But I -- I -- from what I can recall, there
12 wasn't a tree there. And then there was another base
13 that actually had a tree growing out of it. And from
14 what I recall, the suspect -- he didn't just drop it.
15 He -- he definitely was not giving up.

16 And he -- he fired it down at the ground at
17 this tree and then he walked out into the street and
18 turned and squared up against us.

19 Q Was this before or after the less-lethal
20 rounds were fired?

21 A This was before the less-lethal rounds.

22 Q So from your recollection, at the -- at the
23 point when the less-lethal rounds were fired, he did
24 not have the hatchet in his hand?

25 A Correct.

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1 Q Could you gauge how far he walked without
2 the hatchet or item before being hit with the
3 less-lethal rounds, whether it was half a block,
4 quarter block, just beginning of the block?

5 A I would say maybe a quarter block. I would
6 say maybe 20 to 30 feet approximately. If I
7 visualize a vehicle being approximately 12 feet in
8 length, it would've been two to three vehicle lengths
9 from where he dropped the hatchet, I believe.

10 Q And from your recollection, that was --
11 he dropped the hatchet before being hit with the
12 less-lethal rounds?

13 A Yes, sir.

14 Q Now, when he dropped the less-lethal
15 rounds -- or sorry. When he -- strike that. When he
16 dropped the hatchet, is there -- was there any
17 concerns that you still had or any thoughts that you
18 still had since he no longer had that implementation
19 in his possession?

20 A Yeah. So when he -- when he fired the
21 hatchet down at the ground, he did it so forcefully
22 and violently that one of my concerns when he turned
23 around to face us was that he did it to draw us in so
24 maybe he could attack us 'cause I know he still has a
25 knife in his pocket that he actually already

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1 committed a crime with back on Glisan when he pulled
2 it on the security officer.

3 So at that point, I hear another officer.
4 There was kind of a sense of relief. I remember
5 overhearing an officer saying, "Oh, get on the air.
6 Say he dropped the hatchet," and then another officer
7 saying, "No, he's still armed. He's got the knife
8 and you need to air that over the air."

9 And so I don't know who aired it over the
10 air, but I remember this talk that, "He's still
11 armed." And --

12 Q And just to stop you there, was that
13 something that you recall also independently or
14 did -- did the --

15 A I do.

16 Q -- radio call remind you of that?

17 A Yes, sir. I recall from back when I was at
18 the car wash hearing that he, the suspect, pulled the
19 knife on the security officer, the security officer
20 backed away and he put it in his right-front pocket.

21 Q And that was from the radio call?

22 A Yes, sir. And then I heard it again out on
23 the scene, the officer saying, "Hey, remember he's
24 still got the knife in his pocket. He's still
25 armed."

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1 Q So what, if anything, happened after the
2 less-lethal rounds were deployed? You said it had
3 only a momentary effect. What -- what happened after
4 the second round was fired that you recall?

5 A So after that, he back pedaled a few steps.
6 I couldn't recall exactly what he was saying, but he
7 was very aggressive and yelling at the officers.

8 And, you know, screaming and pointing
9 something aggressive to the officers with some body
10 language that indicated he wanted a confrontation.
11 But then he, all of a sudden, changed his mind and
12 turned and started to run.

13 Q So let me -- let me stop you there. When
14 you said he's back pedaled a few steps after getting
15 hit by the less-lethal rounds --

16 A The second less-lethal round.

17 Q Okay. The second less-lethal round, did he
18 back pedal in the direction of the sidewalk away from
19 the street or did he back pedal in your direction?
20 Did he back pedal away from you? Which -- which
21 direction did he back pedal after being hit with the
22 less lethal?

23 A So I am facing southbound on 122nd. He is
24 in the lane facing me and the other officers. And so
25 he took two to three steps backward continuing south

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1 on 122nd.

2 Q Okay.

3 A And then he turned around and ran a few
4 more steps and then turned right to go west on Ash.

5 Q Okay. And as he turned and ran towards
6 Ash, what, if anything, did you do next?

7 A So at that point, I remember just walking
8 with the officer who had been walking with me for the
9 last block or so, block or two. And we walked and
10 continued to walk. As he went down Ash, a patrol
11 vehicle or two -- one or two, I -- drove past us and
12 turned west on Ash and continued down Ash.

13 So right as that vehicle went down on Ash,
14 I communicated to the officer next to me, "Hey, let's
15 stay behind this patrol vehicle and that way, we can
16 continue to provide the resources needed if -- if
17 he -- if something happens down this street."

18 The purpose of that also is -- is, again,
19 more deescalation, creating barriers, distance,
20 cover. If he does decide to turn and confront us in
21 the street again, now, we've got a police car in
22 front of us. We got plenty of time. We can
23 communicate with him.

24 So as we move behind this vehicle that's
25 going down Ash, we lost sight of him. We didn't know

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1 where he went, so it was just this terrifying feeling
2 of, where is he? He -- there are cars, people.
3 There are bushes, houses. He could spring out at any
4 moment and, you know, stab us in the neck.

5 And so -- so we slow down and, you know,
6 we're not going to keep up with this car because it's
7 way too dangerous. We don't know where he's hiding.
8 He could be crouch -- crouching behind any one of
9 these bushes. So we continue to walk and then we see
10 a citizen pointing further west on Ash.

11 And so we kind of jog a couple more steps
12 and then we slow down as we're looking, looking all
13 around us, behind bushes, behind cars. And then
14 there was another citizen there who points further
15 west, so we jog a couple more steps and then we slow
16 down and walk and we're looking around.

17 And then there were two people standing
18 next to each other that verbalize, "He went that
19 way," and they pointed further to the west. So then
20 we started to kind of jog again and then we slowed
21 down right as -- and I don't know for certain, but
22 I -- there was an officer there.

23 And I believe he was probably driving one
24 of the vehicles that we got behind as we moved down
25 Ash. And he gets out of his -- well, I don't

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1 remember get -- him getting out of the vehicle, but
2 he was in the street on Ash walking. I assumed he
3 got out of the vehicle.

4 And he said, "I -- I see him. He went up
5 this way." And he was pointing up to the entry of
6 an -- an apartment around 120th, which is a block.
7 It's not a street, but, like, around 120th and Ash on
8 the south side of Ash.

9 Q Okay. And approximately how many people
10 then -- so if you -- were you still with the person
11 you're walking down the street with?

12 A I was until about the point I saw this
13 officer that said he saw him go up there. Then I
14 began walking with that officer and I don't know
15 where the other officer went.

16 Q Okay. And what, if anything, happened when
17 you were kind of given a direction that the person
18 might be at?

19 A So, at that point, this officer who had
20 just arrived, he -- I remember him having a baseball
21 cap on. And he and I crossed over the -- excuse
22 me -- the sidewalk and started to walk up into a
23 breezeway that kind of led into a courtyard of these
24 apartments where he said he saw the suspect go.

25 And so I remember him moving much quicker

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1 than I wanted to move and -- but I didn't want to get
2 too far behind him, so I was kind of trying to keep
3 up with him. But I said, "Hey, let's -- let's kind
4 of slow down here." And so we go up, like, two steps
5 up into this kind of breezeway area.

6 And I see the suspect maybe approximately
7 30 feet from me. And then I see a civilian just a
8 couple -- couple feet from him. And then as we
9 approach, this person, this civilian, kind of moves
10 back between the two buildings.

11 And it -- it -- as we approach, we -- we
12 moved probably another five to ten feet closer, so
13 we're within 20-ish feet from the -- the suspect.
14 Should I keep going or --

15 Q Well, let me ask you this: What did you
16 notice about the person as you were going into that
17 breezeway? Was he behaving the same as he did before
18 or -- or was there any change in behavior?

19 A So he -- when I first saw him, his back was
20 to me as he was looking to the south. And at the
21 time, it -- it didn't appear that there was an -- an
22 exit for him to the south. There was a fence that he
23 easily, I thought, as motivated as he was, he
24 could've just hopped right over it.

25 And there was also definitely -- through

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1 this court -- courtyard, there was an escape or an
2 avenue, a path he could have continued to run and go
3 back out down the street or through other apartments.
4 But what was most concerning to me was that, at that
5 point, he didn't take any of these avenues that he
6 could've.

7 He didn't jump over the fence. He didn't
8 go down the courtyard. He didn't -- he just stopped
9 and he turned around and he faced us.

10 Q And -- and why was that concerning to you?

11 A That was -- that was frightening because it
12 was a -- a very obvious, deliberate change from his
13 flight after being struck with the second less-lethal
14 round to, now, he is turned and he's facing us and he
15 is transitioning to fight. He's absolutely
16 transitioning to a fight mode because he has avenues
17 to go and he's not taking them.

18 Q And what, if anything -- now, again, does
19 this all happen within minutes or what -- what are
20 you dissecting?

21 A This is -- this is mere seconds.

22 Q What, if anything, else was going through
23 your mind as you realize he's no longer moving away
24 or taking different avenues of escape compared to
25 before?

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1 A So the frightening thing about all this is
2 that it's hot. It's warm. People's doors are open.
3 Their windows are open. I had been, on the last
4 couple weeks, calls where people are running from
5 police and we're trying to set up perimeters and they
6 were -- had tried to get into somebody's house.

7 One, I remember, was trying to hide in
8 someone's shower and then he hid in their pool and we
9 ended up arresting him out of a pool in the backyard.
10 And so -- so I'm concerned that he's going to go into
11 one of these houses and try to hide.

12 But I'm also concerned that he's going to
13 take a hostage. There's going to be somebody in one
14 of these apartments or all of these apartments. And
15 so that's one of my concerns. I'm also concerned
16 that, now, he's switching from flight to, it's go
17 time, it's fight time.

18 And I'm concerned -- I mean, we had just
19 watched in a roll call video a -- a week or two prior
20 of an incident in Georgia where --

21 Q Take your time.

22 A Sorry. Where these officers are forced to
23 confront somebody with a knife. They were able to
24 fire at him, but he runs so fast, it's -- hmm.
25 Excuse me -- things happened so fast that even though

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1 the officer was able to successfully fire at the man,
2 he was so motivated that the rounds didn't stop him.

3 And it just became horrible in that the --
4 the man got back up after being shot and attacked
5 an -- a -- I can't remember if it was the same
6 officer or another officer, but there were two
7 officers on scene -- and got him in a headlock.

8 And the other officer, now, he can't -- he
9 can't protect his partner because he doesn't want to
10 shoot his partner. And so -- just things happen so
11 quickly. And so that was one of my main concerns is
12 that, you know, for myself and my fellow officers and
13 the people living there. Hmm. Excuse me.

14 Q It's all right. Take your time.

15 A So -- so when he changes and he switches
16 from flight to, I'm not taking this escape. I'm not
17 taking -- I'm -- this is it. It's go time. He dives
18 his hand in his pocket right where this knife is.

19 Q Now, let me -- let me --

20 A Go ahead.

21 Q -- stop you there. Did you -- was this
22 based on the radio call or did you see a knife? I
23 mean, what -- what did -- what did you -- what was
24 going through your head as you saw him dive towards
25 his pocket?

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1 A This is based on a --

2 Q Or his waist area. Was he diving for his
3 waist area or his pocket? What did --

4 A No.

5 Q -- you see?

6 A I -- I -- it's weird. I remember being
7 hyperfocused on his hands and it's almost like a
8 magnifying glass. Like, I could see his hand go
9 into his pocket. And I remember watching his wrist
10 move in the pocket as he's trying to pull what's in
11 his pocket out.

12 Q Mm-hmm. And -- and was he --

13 A And I remember from the call and from --
14 specifically, he placed the knife that he already
15 committed a crime with in that very pocket, in that
16 right-front pocket and, again, with the officers
17 after the less lethal that said, "He's still got the
18 knife in his pocket." And that's exactly what he was
19 going for.

20 Q And so while you're focused on that, did
21 you have any idea who or which officers were nearby
22 you or where they were positioned?

23 A I believe Officer Bianchini was to my left.
24 The other less lethal was to his left. The officer
25 with the hat to my right and another officer to his

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1 right -- and I -- which may have been a female
2 officer, but I don't know.

3 I get the sense that there were at least
4 four of us there and maybe more filling in behind us.
5 But I don't know exactly who it was that was right
6 there.

7 Q Was there any sort of a -- a point where
8 you and these other officers stationed and -- and
9 approached as one or did you individually make the
10 decision to go towards that location where the person
11 was located within the apartment area?

12 A No. I -- I believe that as we moved down
13 Ash, I still had the two less lethals to my right. I
14 had the officer who had been with me since Burnside,
15 so there were at least four of us and we all
16 collectively continued towards this apartment and
17 then the other officer with the hat, so, now, there's
18 five of us approaching together.

19 We didn't, you know, overtly communicate,
20 "Hey, let's get on a line and approach." It wasn't
21 that. It was more of just, like, a common
22 understanding that -- that we -- you know, we trust
23 each other with all our training and experience and
24 years doing this together that, hey, we're going to
25 stay together. We're not going to get too close.

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1 We're not going to pressure him.

2 But at the same time, we can't let him go
3 and hurt somebody 'cause something extremely tragic
4 is going to happen. So we -- we kind of collectively
5 approached. But, no, I did not go forward myself or
6 alone.

7 Q And -- and so as you're standing there
8 or -- do you recall what kind of position you took
9 when you approached the person?

10 A I don't recall, but I -- I recall
11 afterwards feeling like I had pressure on my knees.
12 So I believe it's likely I was in a kneeling
13 position, but I don't recall.

14 Q Okay. And -- and you not recalling, where
15 was your attention and focus on as you were
16 approaching that person?

17 A My attention was focused on his hands and
18 then kind of quickly to see what doors and windows
19 were open, where that person who I saw when we first
20 approached, where that person went.

21 The person went around the corner and I
22 didn't see -- and I didn't want to get close to find
23 out where they went because then I would be way too
24 close to him.

25 But -- so it was kind of taking in the

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1 whole scene in considering the risk to that person,
2 but then it just got focused on his hands and what he
3 was about to do with them.

4 Q So at what point did you make the decision
5 to use your weapon -- or your firearm?

6 A So I remember just -- there was -- there
7 was nothing else to do but yell, "Get on the ground."
8 So I remember saying, you know, "Get on the ground.
9 Get on the ground," because at this point, I don't
10 want him to take his hands out of his pockets 'cause
11 I know there's going to be a knife in there.

12 So I just want him to lay on the ground,
13 the we can work it out taking his hand out and go
14 from there. And so that was kind of my last-ditch
15 effort.

16 And I remember hearing an officer to my
17 right yelling, "Don't do it. Don't do it," as he is
18 trying to pull his hand out of his pocket. And he is
19 pulling so hard and aggressively and his eyes -- I
20 remember when he turned around to face, his eyes
21 locked on the officer to my right.

22 And so he got this target lock on the
23 officer to my right as he dives his hand in his
24 pocket. And he's just staring right at him and he's
25 yanking. And I can -- you know, I kind of get this

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1 picture of maybe a knife unfolding in his pocket and
2 catching on his pocket. And so he -- he then --

3 Q And "image" meaning you're imagining that's
4 what's happening or --

5 A That's what I'm imagining is happening --

6 Q Okay.

7 A -- because something -- it's definitely
8 stuck. Like, he's trying with all his might to yank
9 this out, but it's stuck. And so as, you know, we
10 yell, "Get on the ground. Get on the ground,"
11 somebody else says, "Don't do it. Don't do it."

12 Then he -- he gets his left hand and grabs
13 his pants and aggressively is trying to free the
14 knife from his pocket. And then once he frees it, I
15 remember seeing his wrist clearing his pocket as he's
16 pulling the knife out.

17 And that's when I begin firing. I remember
18 seeing a distinct color change. It was a weird color
19 change. It was like -- almost like tannish --
20 tannish goldish. It wasn't like a finger color, but
21 it was -- it was just a distinct color change as --
22 as it cleared his pocket.

23 Q And do you recall, where -- where were you
24 aiming when you started firing or using your firearm?

25 A I was so focused on his hands at that point

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1 that when I began firing, it would not surprise me if
2 rounds landed around the hand/waist area. And then
3 as I fired and -- and continued to fire in -- in one
4 continuous volley to stop him from taking any step
5 forward and stop him.

6 And I fired until I saw a response. I was
7 looking for a response. And so as I fired in this
8 single, continuous volley, I kind of looked at my
9 sights and reacquired my sights. And so I directed
10 them more towards center mass of -- of his chest.

11 Q And -- and at what point did you stop
12 firing?

13 A So I stopped firing as soon as I saw his
14 body -- his motor skills, his motor functioning was
15 beginning to diminish. And that's when I stopped
16 because I could see his mind -- his eyes were still
17 locked onto the officer to my right this whole time.

18 And you could see in his mind and his eyes
19 locked on the officer, he -- he was -- his mind was
20 completely still in fight mode, but his body was not
21 allowing him to -- to continue at this point. And so
22 when I saw that his body was not allowing him to --
23 to get the knife higher, that's when I -- I stopped
24 firing.

25 Q Were there any other things being yelled or

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1 instructed after you stopped firing?

2 A You know, it seemed like a long time, but I
3 know it was only mere seconds, split second where we
4 just kind of waited. It seemed like this long time
5 where, you know, he was settling. And --

6 Q And what do you mean by "settling"? How --

7 A Settling, he was --

8 Q -- what was his body doing?

9 A -- he was -- his hands were still at his
10 pocket. He was getting this knife up, but you could
11 tell, like, his eyes, he was still in the fight, but
12 his body wasn't allowing him to get his arms up. And
13 then he just slowly began to -- it's almost like he
14 leaned against a pole.

15 I don't know if there was a pole there or
16 not, but it seemed like he was leaning against a pole
17 and kind of sliding down a pole. And then he was
18 laying with his feet to the west and his head to the
19 east facing me.

20 And -- and then I remember thinking, well,
21 we need to try to get him some medical help if we
22 can. So I started yelling, "Show us your hands.
23 Show us your hands," but he wasn't putting his hands
24 out.

25 And -- and then at that point, the person

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1 to my left said, "We are going to need a shield up
2 here. We can't approach him. It's still too
3 dangerous. We need a shield up here."

4 And right around that time, another officer
5 tapped me on the shoulder, which I expected. That's
6 how we train, to remove that involved officer from
7 the incident. And so that was -- that was kind of
8 the end of my involvement there.

9 But I just remember thinking, like, I -- I
10 don't -- I don't want to do this. I don't want to
11 shoot this guy. But at the same time, you know, I --
12 my -- my kids want me to do my job and come home and
13 I know the officers to my right expect me to do my
14 job and their families expect me to do my job.

15 And, you know, the person around the corner
16 at the Bureau expects me to do my job and so, you
17 know, I didn't really have a choice. It was just --

18 Q Well, that was going to be -- lead to my
19 next question. Did -- did you think there was
20 anything else you could've done short of using your
21 firearm? And if -- if not, why not? What was your
22 thought process as to why not?

23 A I didn't -- there was nothing else that I
24 could do at that point because we already had two
25 less-lethal operators in their role who were actively

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1 doing their job and who did their job and it was
2 ineffective. And -- and then there was somebody
3 else, you know, communicating.

4 And it was just -- it -- that was my role.
5 That was where I was put. And I just -- I had to do
6 my job. Yeah.

7 MR. HANNON: Hang on one second.

8 Why don't we take a five-minute break for
9 some follow-up questions? We'll go off the record.
10 Yeah.

11 THE WITNESS: Should I step off?

12 MR. HANNON: Go ahead.

13 (Recess taken, 12:38 p.m. - 12:50 p.m.)

14 MR. HANNON: We are back on the record with
15 the testimony of Officer Doran. I will recall him to
16 the stand.

17 Officer. Go ahead and have a seat.

18 BY MR. HANNON:

19 Q Okay. So I believe where we concluded was
20 some of the decision making and thought process you
21 had as you used your firearm against the person at
22 Ash Street apartments. And while I review my notes,
23 I'll turn it over to the grand jurors.

24 Oh, there was one question coming in. Have
25 you ever been personally involved in an

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1 officer-involved shooting like this before?

2 A I've witnessed a couple, but I have not in
3 this capacity.

4 Q Okay. Meaning you have never fired your
5 rounds at someone causing --

6 A Correct.

7 Q -- their death?

8 A Correct.

9 MR. HANNON: Okay. Does anybody else have
10 any questions while I review my notes?

11 A GRAND JUROR: Do you -- have you ever had
12 any previous contacts with the -- the suspect in this
13 case prior to this event?

14 THE WITNESS: Not that I'm aware of. If it
15 was determined that I had, I have no recollection --

16 A GRAND JUROR: Okay.

17 THE WITNESS: -- whatsoever.

18 A GRAND JUROR: And we talked about CIT and
19 ECIT training.

20 THE WITNESS: Mm-hmm.

21 A GRAND JUROR: Do you have the basic CIT
22 or the ECIT training?

23 THE WITNESS: The -- the basic CIT, yes.

24 A GRAND JUROR: To dovetail on her
25 question, do you use the same CIT skills when you're

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1 dealing with someone who's on drugs as opposed to a
2 mental health crisis?

3 THE WITNESS: Yes.

4 A GRAND JUROR: Okay.

5 THE WITNESS: Yes.

6 A GRAND JUROR: Nobody else?

7 Okay. Your patrol car, was it a regular
8 patrol car or one of those regular looking cars?

9 THE WITNESS: It was one of the Ford
10 Explorers that's marked. It says, "Portland Police."
11 It's blue and white with visible lights.

12 MR. HANNON: So to expand upon that
13 question, I -- I presume you're asking, is it a sedan
14 versus an SUV or was there more than that?

15 A GRAND JUROR: No. The -- there was --

16 A GRAND JUROR: (Indiscernible).

17 A GRAND JUROR: -- the -- the under --
18 undercover --

19 MR. HANNON: Got it.

20 A GRAND JUROR: -- cars.

21 MR. HANNON: Okay.

22 A GRAND JUROR: And earlier, it's -- when
23 you were listening in on the -- the radio, you heard
24 discussion of -- about asking for help from other
25 precincts. And it sounded like you said air, too,

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1 was in that discussion?

2 THE WITNESS: I don't recall that. What
3 I recall is the discussion for other precincts
4 specifically being for the ECIT resource.

5 A GRAND JUROR: Okay. Do you remember if
6 Officer Zentner -- when she called for help, did she
7 use the phrase "Code 3"?

8 THE WITNESS: I don't recall her saying
9 that.

10 A GRAND JUROR: Okay.

11 BY MR. HANNON:

12 Q Do you recall ever hearing anybody
13 responding or saying they'll respond Code 3?

14 A I don't recall hearing that either.

15 Q Okay.

16 A It may have, but I -- I don't recall that,
17 no.

18 Q Did -- did you respond Code 3?

19 A Yes.

20 Q And -- and what -- what -- for -- just for
21 the record, when you say you responded Code 3, what
22 did that mean to you?

23 A That means activating lights, siren, so the
24 audible siren from the police car, the lights, you
25 know, slowing down at intersections, clearing them,

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1 proceeding through even if it's a red light. That's
2 what I'm thinking of when you say Code 3.

3 And I would imagine -- and I can't speak
4 for other officers, but I would imagine they also
5 were responding Code 3, but I just don't recall a
6 clear audio transmission that says Code 3.

7 MR. HANNON: Yes.

8 A GRAND JUROR: Did you -- while following
9 along with the other officer down 122nd southbound,
10 do you remember if you gave any verbal commands
11 yourself to the suspect?

12 THE WITNESS: I remember really wanting to
13 give commands just because it was such a tense and --
14 and, you know, really powerful situation, but we've
15 been trained not to. If there's somebody giving
16 commands, let them give commands so it doesn't
17 confuse the suspect.

18 A GRAND JUROR: Mm-hmm.

19 THE WITNESS: Yes. I remember really
20 wanting to give commands, but I did not give
21 commands. In fact, I -- I -- I -- I don't want to
22 even say I don't recall giving commands. I'm pretty
23 confident I did not give commands.

24 A GRAND JUROR: Okay. Similarly, in the
25 corridor, you mentioned that you told him -- I can't

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1 remember exactly what you said -- told him to get on
2 the ground possibly and you heard another officer
3 yell, "Don't do it."

4 Were those the only two commands that you
5 remember hearing in that very small space and short
6 amount of time?

7 THE WITNESS: Yeah. I don't remember -- I
8 don't remember anything specific. I just remember
9 the main three commands I heard throughout were, you
10 know, "Show me your hands," "Get on the ground," and,
11 "Drop the weapon."

12 Once we got into the apartment area, I know
13 commands were being given, but I don't remember
14 exactly what they were. And I believe I said, "Get
15 on the ground," was my last kind of ditch effort even
16 though I was trying not to give commands, but I just
17 felt like that was, like, my last effort to actually
18 do any -- anything to prevent this.

19 But I do vividly remember someone saying,
20 "Don't do it. Don't do it," in kind of, like, an
21 ascending tone. But I don't recall anything more
22 specific than that.

23 A GRAND JUROR: Okay.

24 A GRAND JUROR: And -- oh, go ahead.

25 A GRAND JUROR: Okay. Sorry.

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1 Did you hear the suspect, while walking
2 down 122nd, say that he would use -- or I guess at
3 any time, say that he would use the hatchet or any of
4 his weapons on officers or anyone else?

5 THE WITNESS: No.

6 A GRAND JUROR: Okay.

7 THE WITNESS: That was more what I
8 perceived from his body language --

9 A GRAND JUROR: Okay.

10 THE WITNESS: -- but not audibly hear
11 that -- those words, no.

12 A GRAND JUROR: Okay.

13 MR. HANNON: Yes, sir.

14 A GRAND JUROR: The officer next to you
15 with the ballcap, did you happen to notice what tool
16 he had out?

17 MR. HANNON: Well, I'm going to rephrase --
18 I'm going to rephrase that question only 'cause
19 you're basing information on -- that you have from a
20 video. Do -- so I'll ask the first --

21 A GRAND JUROR: No. He -- he said that
22 there was a -- the --

23 MR. HANNON: Oh.

24 A GRAND JUROR: -- the officer to his right
25 was the guy -- the --

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1 MR. HANNON: The ballcap.

2 A GRAND JUROR: -- officer that was wearing
3 the ballcap.

4 MR. HANNON: You're right. I apologize.

5 BY MR. HANNON:

6 Q Do you recall?

7 A So if you are referring to in the breezeway
8 at the apartment --

9 A GRAND JUROR: Yes.

10 THE WITNESS: -- complex, I remember the
11 officer to my right had a ballcap and I remember
12 seeing his flashlight on his firearm.

13 A GRAND JUROR: And do you remember what
14 the firearm was?

15 THE WITNESS: Pistol.

16 A GRAND JUROR: Okay.

17 A GRAND JUROR: Do you mind, again, telling
18 us -- I understand his -- his facial expression and
19 his body language at the time when you decided you
20 were going to shoot, but was he, like, getting ready
21 to charge towards you or your other colleagues or he
22 was walking backwards to the left, to the right? Was
23 there anything?

24 THE WITNESS: Yeah. From what I remember,
25 he was standing still -- well, he was -- at first, he

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1 was facing away from us. And then as we stepped up,
2 he turned and he faced us. And he fixed his eyes --
3 he locked his eyes on the two officers to my right.

4 And -- and that's when he started digging
5 for his weapon. And so in my mind, yes, I'm
6 thinking, if I don't stop him, he is going to charge
7 with that weapon as soon as it clears his pocket, on
8 those two specifically.

9 BY MR. HANNON:

10 Q Did you actually -- to follow up with that
11 question, though, did you recall him actually taking
12 a step forward or -- or only put his hands in his
13 pocket or both?

14 A I cannot say for certain if he stepped
15 forward. I believe -- I believe he did, but if he
16 did, it was only a foot or two. It wasn't, like, six
17 steps.

18 Q And if you were to gauge, you know, how you
19 prioritize your observations of him, was your -- was
20 your observations more focusing on his hand -- or
21 hands near his pockets or the step or both?

22 A It was definitely his hands because --
23 well, and the wrist. I just remember seeing the
24 wrist and then the -- the black glove right around
25 his wrist line as he's trying to pull it out and then

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1 watching his left hand reaching forward to clear it.

2 And I just remember being hyperfocused on his hands.

3 Q And just because we're audibly recording,
4 the pantomiming that you're doing both this time and
5 last time is you're taking your left hand mimicking a
6 pocket and your right hand going past your hand as if
7 his entire hand is going in his pocket. Am -- am I
8 accurately describing that?

9 A Yes, that's what I can recall. Yes.

10 MR. HANNON: Okay.

11 A GRAND JUROR: So he was able to clear it
12 with his left hand?

13 THE WITNESS: Yes. So he -- it -- it was
14 like it was stuck. He couldn't pull it with his
15 right hand, so he used his left hand to help clear it
16 to pull it out.

17 A GRAND JUROR: Was it closed or -- or do
18 you recall or --

19 THE WITNESS: The --

20 A GRAND JUROR: The -- the -- the blade
21 (indiscernible).

22 THE WITNESS: Oh, the blade, I don't
23 recall.

24 A GRAND JUROR: Okay.

25 BY MR. HANNON:

Examination of Gary Richard Doran

1 Q And just to be clear, you're -- if I heard
2 your testimony before, you didn't necessarily see a
3 blade. You saw a change or discoloration as his hand
4 was beginning to clear his pocket?

5 A Correct.

6 Q Okay.

7 A Correct.

8 MR. HANNON: Yes.

9 A GRAND JUROR: Have you had any previous
10 experience with people armed with knives?

11 THE WITNESS: Yes. There's -- I've got --
12 I've seen so many things that -- knives are just so
13 incredibly dangerous and it doesn't take much. And
14 I've helped put tourniquets on people who have sliced
15 arteries and are bleeding out.

16 And just edged weapons in general, whether
17 it's a machete or an axe or a hatchet or a knife,
18 they're just so horrible. I -- I had somebody --
19 even just a broken bottle. I -- I had a call one
20 time years ago where we went to this house and
21 somebody kind of quickly ran up to me with this
22 bottle.

23 And so I grabbed it out of his hands
24 thinking he was going to hit me with it. And I
25 didn't know, but he'd broken the top off and I still

Examination of Gary Richard Doran

1 have a scar on my hand.

2 And it just sliced my hand right open and I
3 was bleeding all over the place. And so it doesn't
4 take much. Edged weapons can -- I mean, they can
5 sever nerves and arteries and they're just, you know,
6 very dangerous.

7 MR. HANNON: Yes, sir.

8 A GRAND JUROR: You mentioned pepper spray
9 as a nonlethal. What type of situation, based on
10 your experience, would that be a good tool to use?
11 I -- probably this wouldn't be that situation, but
12 would that be, like, for fistfights or --

13 THE WITNESS: It really depends and it --
14 and for Portland-specific policy, it's changed over
15 the years. So, you know, for example, years ago, you
16 could go up to somebody who was sitting in a stolen
17 vehicle and they're getting ready to drive off.
18 You're trying to take them into custody.

19 You know, you might be able to spray them
20 so they can't drive away. Well, now, policy
21 prohibits that. So it really -- it really depends.
22 But in this situation, no, that wouldn't be an
23 option, plus for me it wouldn't be an option because
24 there were already two less-lethal operators.

25 A GRAND JUROR: That was (indiscernible).

Examination of William Winters

1 THE WITNESS: And that's the main reason.

2 A GRAND JUROR: Okay. Thank you, sir.

3 MR. HANNON: Any other questions?

4 A GRAND JUROR: No.

5 MR. HANNON: Okay. Why don't we go off
6 the record?

7 And, Officer Doran, thank you.

8 A GRAND JUROR: Thank you.

9 (Recess taken, 1:02 p.m. - 1:08 p.m.)

10 MR. HANNON: We are back on the record on
11 Grand Jury 3, Case No. 54. We've heard the testimony
12 from Officer Doran. We're recalling Detective
13 Winters for a couple follow-up questions.

14 **WILLIAM WINTERS**

15 Was thereupon recalled as a witness; and, having been
16 previously sworn, was examined and testified as
17 follows:

18 **EXAMINATION**

19 BY MR. HANNON:

20 Q Detective Winters, going back to the Ash
21 apartment video --

22 A Yes.

23 Q -- can you, again, just briefly give us
24 identifications of the positioning of the different
25 officers as they approach Ash Apartment? And I'll --

Examination of William Winters

1 I'll pause and then -- and then continue to play as
2 you tell me who's who.

3 (**TRANSCRIBER'S NOTE:** Video recording
4 played for the Grand Jury while the witness is
5 examined, 1:08 p.m.)

6 THE WITNESS: This is Officer Christian
7 Santos. This is Officer Budey. Right there is
8 Officer Doran. Right here is Acting Sergeant Kemple.
9 BY MR. HANNON:

10 Q And Acting Sergeant Kemple is one of the
11 less lethal (indiscernible)?

12 A 40-millimeter, yes, who had -- I believe
13 that you heard earlier had fired a less-lethal round
14 down around the corner there on Ankeny. Right here
15 is Officer Bianca, Officer Piombo, Officer Ionesi,
16 Officer Leonard, Officer Hristov.

17 A GRAND JUROR: Hmm.

18 MR. HANNON: Does anybody else have any
19 questions for Detective Winters?

20 A GRAND JUROR: Can I refer to Officer
21 Doran's testimony?

22 MR. HANNON: Yeah. I -- in phrasing --

23 A GRAND JUROR: Okay.

24 MR. HANNON: -- the question, but sure.

25 A GRAND JUROR: At one point, Officer Doran

Examination of William Winters

1 was walking down 122nd with another officer. Do --
2 have you identified that officer?

3 THE WITNESS: I have not, no.

4 A GRAND JUROR: Okay.

5 BY MR. HANNON:

6 Q And if we go back to the video just to
7 follow up on that, primarily -- and we're looking at
8 the Burnside video.

9 A (Indiscernible).

10 Q Yes, just make sure you speak audibly.

11 A So early on, I think you guys had asked
12 how -- or Deputy District Attorney Hannon asked how
13 many officers had responded at one time. There's
14 23 officers that have responded from the beginning up
15 until the shooting time, so this depicts the 122 and
16 Burn facing eastbound and numerous officers arriving.

17 Q That guy right here, that's Mr. Martin?

18 A Yes.

19 Q This person right here appears to be -- and
20 I know this is kind of pixillated in distance, but
21 what appears to be sunglasses and little to no hair.
22 Would that be consistent with the physical
23 characteristics of Officer Doran behind these two
24 less lethals?

25 A Yes. This would be Officer Bianchini and

Examination of William Winters

1 Acting Sergeant Kemple. And that would be
2 consistent.

3 Q But given the distance in pictures and
4 everything else, is it -- is it -- are you able to
5 say definitively who's who among the various officers
6 who responded to this call?

7 A I could. If you back up, I can -- I can --
8 based off of seeing them in person and from past
9 incidences, this would be Officer Christian Santos.

10 Q (Indiscernible). Tell me when to stop it.

11 A Go ahead and stop right there. Right here,
12 it looks like -- and I can't say definitely -- is --
13 like you had described, is Officer Doran. I do not
14 know who that is. This is Christian Santos.

15 Q And, again, these are Kemple and Bianchini
16 in the front?

17 A That is correct. Go ahead and pause. I
18 believe that's Officer Bianca, as she had said that's
19 when she arrived as she was following
20 (indiscernible). And continue to go forward.

21 Q Oh.

22 A Oh, sorry. Back here just prior, that was
23 Officer Chong. That was one of the initial
24 responding officers and you'll see him walk here from
25 behind. Right there.

Examination of William Winters

1 MR. HANNON: Any other questions?

2 A GRAND JUROR: No.

3 MR. HANNON: Okay. Thank you.

4 A GRAND JUROR: Thank you.

5 MR. HANNON: And we can go off the record.

6 * * *

7 (Conclusion of Grand Jury No. 3 Proceedings,

8 Volume 3, 10-14-19 at 1:13 p.m.)

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REPORTER'S CERTIFICATE

I certify, by signing below, that the foregoing is a correct transcript, of the audio record in the above-entitled cause, as recorded on CD and transcribed to the best of my ability and in accordance to the quality of the audio CD.


KATIE BRADFORD, CSR 90-0148
Court Reporter
(503) 267-5112

